

Applicant: Agyapal Singh

Respondent: Minister for Immigration and Citizenship

Tribunal Number: 2023/4708

Tribunal: Senior Member A. Nikolic

Place: Melbourne

Date: 11 September 2026

Decision: The Tribunal affirms the decision under review.

.....[SGD].....

Senior Member A. Nikolic

Catchwords

MIGRATION – Mandatory cancellation of Class WC Subclass 030 Bridging C visa – citizen of India – mandatory visa cancellation – substantial criminal record – previous confidentiality order removed – crimes of dishonesty – family violence – breaches of conditional liberty – illicit drug use – drug-driving and other traffic offences – failure to pass character test – application remitted by Federal Court in 2023, 2024, and 2025 – whether another reason to revoke visa cancellation – Ministerial Direction no. 110 applied – reviewable decision affirmed

Legislation

Administrative Review Tribunal Act 2024 (Cth)

Criminal Code Act 1899 (Qld)

Migration Act 1958 (Cth)

Migration Regulations 1994 (Cth)

Cases

Ali v Minister for Immigration and Border Protection [2018] FCA 650

Ayoub v Minister for Immigration and Border Protection (2015) 231 FCR 513

BNY23 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2025) 307 FCR 150

CKL21 v Minister for Home Affairs (2022) 293 FCR 634

CRNL v Minister for Immigration, Citizenship and Multicultural Affairs [2023] FCAFC 138

CVN17 v Minister for Immigration and Border Protection (2019) 163 ALD 101

CZA19 v Commonwealth of Australia [2025] HCA 8

DOB18 v Minister for Home Affairs [2018] FCA 1523

FYBR v Minister for Home Affairs (2019) 272 FCR 454

FYBR v Minister for Home Affairs and Anor [2020] HCA Trans 056

Hmung and Minister for Immigration and Citizenship (Migration) [2026] ARTA 416

Ismail v Minister for Immigration, Citizenship and Multicultural Affairs [2024] HCA 2

JRX25 v Minister for Immigration and Citizenship [2026] FCA 1170

Minister for Home Affairs v Omar (2019) 272 FCR 589

Minister for Immigration and Ethnic Affairs v Teoh (1995) 183 CLR 273

Minister for Immigration & Multicultural & Indigenous Affairs v Lorenzo [2005] FCAFC 13

MNLR v Minister for Immigration, Citizenship, Migrant Services & Multicultural Affairs [2021] FCAFC 35

Nathanson v Minister for Home Affairs (2022) 276 CLR 80

NBMZ v Minister for Immigration and Border Protection (2014) 220 FCR 1

Nguyen v Minister for Immigration, Citizenship and Multicultural Affairs [2024] FCAFC 160

Plaintiff M1/2021 v Minister for Home Affairs (2022) 275 CLR 582

RGCZ v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2002) 295 FCR 365

RRFM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2022] FCAFC 27

Singh v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2024] FCA 1273

Spruill v Minister for Immigration and Citizenship (2012) 135 ALD 45

Stoneley v Minister for Immigration and Multicultural Affairs [2025] FCA 143

Taulahi v Minister for Immigration and Border Protection (2016) 246 FCR 146

Tohi v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2021) 285 FCR 187

Uelese v Minister for Immigration and Border Protection (2015) 256 CLR 203

XPLW v Minister for Immigration and Multicultural Affairs [2026] FCA 210

YKSB v Minister for Home Affairs [2020] FCAFC 224

Secondary Materials

Direction No. 110 – Migration Act 1958 – Direction under section 499: Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA

Carleen Thompson and Anna Stewart, Risk of Reoffending: Probation and Parole Version Screening Tool (2007). As discussed at <<https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5517t196/5517t196.pdf>>

Don Andrews and James Bonta, The Level of Service Inventory–Revised (Multi-Health Systems Inc. 1995)

Queensland Sentencing Advisory Council, ‘Types of penalties and sentences’ (Web Page, updated 27 August 2026) <<https://www.sentencingcouncil.qld.gov.au/about-sentencing/types-of-penalties>>

REASONS FOR DECISION

INTRODUCTION

1. This case relates to the Respondent's decision not to revoke the mandatory cancellation of the Applicant's Class WC Subclass 030 Bridging C visa (**Bridging Visa**). The application is being heard by the Tribunal for a fourth time, with three earlier decisions by differently constituted Tribunals in 2023, 2024, and 2025 being set aside by the Federal Court.
2. The present hearing was conducted by videoconference on 25 and 26 August 2026. The Applicant was represented by Dr Jason Donnelly of counsel, acting pro bono and on a direct access basis. The Tribunal expresses its appreciation for Dr Donnelly's assistance and careful presentation of the Applicant's case through helpful submissions. The Respondent was represented by Mr Ingmar Duldig, a solicitor with Clayton Utz Lawyers.
3. For the following reasons, the Tribunal affirms the reviewable decision.

BACKGROUND AND PROCEDURAL HISTORY

4. The Applicant is currently 31 years of age and a citizen of India. He was educated there to secondary level and undertook some work.¹ In 2015, he married a woman with whom he had one child. The Tribunal will refer to as "**Ms AA**". The child is currently 10 years of age.² The Applicant states the child lived with his mother in India for a time but asserts they both departed for the United States of America in December 2025.³ There is no independent corroboration of this claim.
5. The Applicant first entered Australia in June 2018 at almost 24 years of age as a dependant on Ms AA's Student Visa.⁴ Except for a single departure on 2 January 2020 to visit family in India he has lived in Australia since.

¹ Exhibit R1, 88 [13].

² Ibid 245.

³ Exhibit A1, 5 [33].

⁴ Exhibit R1, 584.

6. The Applicant reports working as a cleaner and driver in Australia before ceasing work in early 2020. He contextualises this period of his life as marked by two significant events.
- (a) The first is the death of his only (younger) sibling in a car accident in India⁵ on 3 February 2020.⁶ The Applicant claims he was coincidentally visiting family in India when this occurred, while Ms AA and their child remained in Australia. He further claims his brother's death was in "similar circumstances" to that of their father, who also purportedly died in a car accident in India.⁷ Other evidence before the Tribunal, however, refers to the Applicant and a brother, who is named in a Queensland Police Sentencing Schedule as Jashanjot Singh, being involved in fraudulent conduct in a Bunnings Warehouse in June 2020.⁸ If the Applicant only has one sibling and the person referred to in the police report is his brother, this would be irreconcilable with the Applicant's claim that his only brother died in early 2020. On current evidence, this issue is unable to be persuasively determined, and no weight is placed on it.
 - (b) The second issue relied on by the Applicant is that he discovered during a visit to India in early 2020 that Ms AA was having an affair with a relative. He asserts that the combined impact his brother's death and Ms AA's infidelity led him to end his marriage upon return to Australia. The evidence before the Tribunal discloses that Ms AA filed for and divorced the Applicant in April 2021.⁹ The Applicant said after his marriage ended in early 2020, he was depressed, had no savings, and spiralled into heroin and methamphetamine addiction, resulting in extensive crimes.¹⁰
7. The Student Visa under which Ms AA earlier sponsored the Applicant's presence in Australia was cancelled in December 2020. He was then granted a Bridging Visa, which he claimed in oral evidence related to a Student Visa application he made after separating from Ms AA. It is uncontroversial no work rights are associated with a Bridging Visa.¹¹ There is no evidence the Applicant was ever granted a Student Visa or undertook any formal education in Australia.

⁵ Ibid 934 [35].

⁶ Ibid 917 [25].

⁷ Ibid 528 [8].

⁸ Ibid 791.

⁹ Ibid 245 - 246.

¹⁰ Ibid 88 [16].

¹¹ Ibid 936 [36], 980 [7], 1351 [6].

8. The Applicant has an extensive criminal history in Australia,¹² which he does not dispute.
9. At some point in 2020, the Applicant commenced a romantic relationship with a female Australian citizen also of Indian origin. The Tribunal will refer to her as “**Ms BB**”. The Applicant made a Partner (subclass 820) visa application in December 2020 with the intention of remaining permanently in Australia with Ms BB.
10. In April 2021, the Applicant pleaded guilty to and was convicted of offences committed between April and November 2020.¹³ These predominantly relate to dishonest conduct, breaches of conditional liberty, possession of illicit drugs, and unlawful use of motor vehicles. He was sentenced to imprisonment for 16 months, suspended for 18 months on the condition that he must not commit another offence punishable by imprisonment during that period. He was also ordered to pay \$7000 in restitution.
11. On 1 October 2021, the Applicant contravened a domestic violence order in place to protect Ms AA.
12. On 26 October 2021, the Applicant married Ms BB.¹⁴ Their only child was born in early July 2022.¹⁵
13. On 17 November 2022, the Applicant pleaded guilty to and was convicted of multiple further offences.¹⁶ These again related predominantly to instances of dishonest conduct but also included the domestic violence contravention against Ms AA on 1 October 2021, drug-related offences, unlawful use of a motor vehicle, and multiple breaches of conditional liberty. When concurrency and cumulation was applied, the Court sentenced him to a total effective sentence of one year and two months’ imprisonment. The Applicant’s visa history in Australia since is now summarised:
 - (c) On 18 November 2022, the Applicant was granted a further Bridging Visa.¹⁷

¹² Ibid 513 – 516; 740 - 809.

¹³ Ibid 687 – 688; 814 – 823.

¹⁴ Ibid 547.

¹⁵ Ibid 548 - 549.

¹⁶ Ibid 517 – 536.

¹⁷ Ibid 736 – 737, 1351 [2].

- (d) On 14 December 2022, in consequence of his 17 November 2022 convictions, the Applicant's Bridging Visa was mandatorily cancelled by the Minister under s 501(3A) of the *Migration Act 1958* (Cth) (**the Act**).¹⁸
- (e) On 9 January 2023, the Applicant sought revocation of the cancellation decision,¹⁹ following which further correspondence passed between the parties.²⁰
- (f) On 27 June 2023, the Minister declined to revoke the cancellation decision (**non-revocation decision**).²¹
- (g) On 29 June 2023, the Applicant asked the former Administrative Appeals Tribunal (**AAT**) to review the non-revocation decision.²²
- (h) On 19 September 2023, the AAT affirmed the non-revocation decision (**2023 decision**). The Applicant appealed this decision to the Federal Court.
- (i) On 18 December 2023, S.C. Derrington J allowed the Applicant's appeal by consent of the parties, set aside the 2023 decision, and remitted the matter for redetermination according to law. Her Honour accepted that the Tribunal made a jurisdictional error by illogically weighing extent of impediments if removed against the Applicant despite finding he would face impediments if removed.
- (j) On 14 May 2024, a differently constituted Tribunal affirmed the non-revocation decision (**2024 decision**). The Applicant appealed this to the Federal Court.
- (k) On 7 November 2024, Rangiah J allowed the first ground of the Applicant's appeal, set aside the 2024 decision, and remitted the matter for redetermination according to law. His Honour found that the Tribunal committed jurisdictional error by deferring consideration of the Applicant's non-refoulement claims and thereby failed to assess the likelihood of the identified legal consequences occurring. By assigning neutral or no weight to the possibility of the Applicant's removal and exclusion from Australia, the Tribunal was found to have effectively assumed the Applicant would obtain a

¹⁸ Ibid 585; 652 – 656.

¹⁹ Ibid 537.

²⁰ Ibid 592 – 597.

²¹ Ibid 489.

²² Ibid 482.

Protection visa; an approach lacking an evident and intelligible justification within the meaning of *Minister for Immigration and Citizenship v Li*.²³ The Court further found that the Tribunal failed to give any apparent consideration or weight to the consequence that, absent cancellation, the Applicant would remain in immigration detention. His Honour held that the Tribunal could not logically or reasonably conclude that ongoing detention did not weigh at least to some extent in favour of revocation, which constituted a further jurisdictional error.

- (l) On 23 September 2025, a differently constituted Tribunal affirmed the non-revocation decision (**2025 decision**). The presiding Senior Member made a non-publication order on 23 September 2025, pursuant to s 70(1) of the *Administrative Review Tribunal Act 2024* (Cth) (**ART Act**). This is later discussed.
 - (m) The Applicant appealed the 2025 decision to the Federal Court.
 - (n) On 23 March 2026, Meagher J allowed the Applicant's appeal by consent of the parties, set aside the 2025 decision, and remitted the matter for redetermination according to law. Her Honour accepted that the Tribunal's decision was affected by jurisdictional error, including because it involved illogicality, irrationality and/or legal unreasonableness. This related to the Tribunal misunderstanding the evidence about which allegations of family violence were accepted by the Applicant in the earlier proceedings and which allegations remained disputed.
14. It is based on that lengthy procedural history, now approaching four years, that the Tribunal turns to considering this application for a fourth time.

LEGISLATIVE FRAMEWORK

15. Section 13 of the ART Act and s 500(1)(ba) of the Act are the sources of the Tribunal's jurisdiction to hear this review application. The ART Act provides that the Tribunal is not bound by the rules of evidence, may inform itself on any matter, and is free to act with as little formality and technicality as a proper consideration of matters before it permits.²⁴

²³ *Minister for Immigration and Citizenship v Li* (2013) 249 CLR 332, [76] (Hayne, Kiefel and Bell JJ).

²⁴ ART Act, ss 49–50, 52.

16. Section 501(3A) of the Act, read in conjunction with ss 501(6) and 501(7), obliges the Minister to cancel a person's visa if satisfied the person does not pass the character test and is serving a full-time sentence of imprisonment.
17. The '*character test*' is defined in s 501(6) of the Act and a person does not pass it if they have a '*substantial criminal record*' as defined by s 501(7). This includes if they have been sentenced to a term of imprisonment of 12 months or more.
18. Under s 501CA(3) of the Act, the Minister is obliged to give notice of a cancellation decision as soon as practicable after it is made and invite the affected person to make revocation submissions. Provisions relating to the form and process of those representations are found in reg 2.52 of the *Migration Regulations 1994* (Cth).
19. Section 501CA(4) of the Act confers a discretionary power on the Minister to revoke the original decision if the person whose visa has been cancelled makes representations in accordance with the invitation, and the Minister is satisfied the person either passes the character test, or there is another reason why the original decision should be revoked.

ISSUE

20. It is uncontroversial the Applicant has been sentenced to imprisonment of 12 months or more, therefore has a substantial criminal record, and does not pass the character test. Accordingly, s 501CA(4)(b)(i) of the Act does not provide a basis to revoke the cancellation decision. The remaining issue under s 501CA(4)(b)(ii) of the Act is whether there is '*another reason*' for revocation.

DIRECTION 110

21. The Tribunal is required to comply with Ministerial Direction No. 110 made pursuant to s 499 of the Act (the **Direction**).²⁵

²⁵ The Act, s 499(2A); *Nathanson v Minister for Home Affairs* (2022) 276 CLR 80, 540 [4] (Kiefel CJ, Keane and Gleeson JJ); Minister for Immigration, Citizenship and Multicultural Affairs (Cth), *Direction No. 110: Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA* (commenced 21 June 2024) (the **Direction**).

22. Clause 5.1 of the Direction identifies the objectives of Australia's migration framework. The first of these is to regulate, in the national interest, the coming into, and presence in, Australia of non-citizens.
23. Clause 5.2 of the Direction sets out principles that inform the exercise of powers under the Act. These are summarised as follows:
- (a) Decision-makers must recognise that Australia, as a sovereign nation, has the right to determine whether non-citizens of character concern may enter or remain. The grant and continuation of a visa is referred to as a privilege that is premised on compliance with Australian laws and respect for Australian institutions.
 - (b) The safety of the Australian community is the highest priority of the Australian Government.
 - (c) Non-citizens who engage, or have engaged, in criminal or other serious misconduct should ordinarily expect to be denied entry to, or lose the privilege of remaining in, Australia.
 - (d) The Australian community expects that visas may be refused or cancelled where conduct in Australia or overseas gives rise to serious character concerns, irrespective of whether the person presents a measurable risk of causing physical harm to the community.
 - (e) Australia maintains a low tolerance for serious misconduct by visa applicants, limited-stay visa holders, and persons with only a short period of residence and contribution to the Australian community. Greater tolerance may, however, be afforded to non-citizens who have spent most of their lives in Australia or who arrived at a very young age.
 - (f) Decision-makers must assess all relevant primary and secondary considerations in the circumstances of each case. Nevertheless, where the nature, seriousness, or potential consequences of the conduct are sufficiently grave, those factors may outweigh even strong countervailing considerations and justify visa refusal, cancellation, or maintenance of mandatory cancellation. Certain forms of conduct, including family violence, are inherently so serious that this may be so even where

the available evidence indicates no measurable risk of future physical harm to the Australian community.

24. Clause 6 of the Direction requires decision-makers, informed by the principles in cl 5.2, to consider the primary and other considerations identified in cls 8 and 9, insofar as they are relevant to a particular case.
25. The primary considerations identified in cl 8 of the Direction are:
 - (1) *Protection of the Australian community from criminal or other serious conduct;*
 - (2) *Whether the conduct engaged in constituted family violence;*
 - (3) *The strength, nature and duration of ties to Australia;*
 - (4) *The best interests of minor children in Australia; and*
 - (5) *Expectations of the Australian community.*
26. The other considerations identified in cl 9 of the Direction include, non-exhaustively:
 - (a) *Legal consequences of the decision;*
 - (b) *Extent of impediments if removed; and*
 - (c) *Impact on Australian business interests.*
27. Clause 7 provides that, in applying the primary and other considerations, appropriate weight should be attributed to information and evidence from independent and authoritative sources. The Direction further provides that the protection of the Australian community will generally attract greater weight than the other primary considerations.
28. The Tribunal is required to consider an applicant's expressly articulated representations or those clearly arising from the evidence.²⁶ Subject to complying with that obligation, the weight attributed to individual considerations, and the ultimate balancing exercise required by the Act and Direction, remain matters for the Tribunal's evaluative judgment.²⁷

²⁶ *Plaintiff M1/2021 v Minister for Home Affairs* (2022) 275 CLR 582 ('*Plaintiff M1/2021*'), [22], [25], [27], [36] (Kiefel CJ, Keane, Gordon and Steward JJ).

²⁷ *CRNL v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] FCAFC 138, [28], [37] – [38] (Colvin, Stewart and Jackson JJ); *Nguyen v Minister for Immigration, Citizenship and Multicultural Affairs* [2024] FCAFC 160, [23] (Perram, Colvin and Abraham JJ).

CONFIDENTIALITY

29. The previously constituted Tribunal in 2025 made a non-publication order under s 70(1) of the ART Act, which anonymised the Applicant's identity as "LZLW". That order stood in contrast to the broader procedural history of this matter given that the Applicant's name and case details were publicly identified in his criminal proceedings, two earlier Tribunal decisions in 2023 and 2024, and in subsequent judicial review proceedings arising from those decisions.
30. By letter dated 28 July 2026, the Tribunal invited the parties to make submissions about whether there was a proper basis to continue the confidentiality order. A joint response was received on 4 August 2026, which submitted that the 2025 order was made on the presiding member's own initiative and related to family violence being a factor in the case.
31. At the commencement of the current hearing, the Tribunal sought any further submissions. Neither party pressed continuation of the confidentiality order.
32. The Tribunal has previously set out the statutory framework, imperatives, applicable principles and key authorities relating to the issue of confidentiality orders under s 70 of the ART Act.²⁸ This is adopted for the current proceeding.
33. Family violence is undoubtedly a serious matter and, in an appropriate case, the protection of a person affected by it may justify restrictions upon the publication or disclosure of identifying information. The mere fact that family violence arises as an issue in a proceeding, however, does not, without more, require the anonymisation of a party or suppression of a proceeding. There is no statutory confidentiality imperative applicable to the current case such as ss 91X and 501K of the Act. The Applicant has not applied for a protection visa. Any assertion of claims that may, in another statutory context, engage Australia's protection obligations, does not of itself bring the Applicant within the operation of ss 91X or 501K. Nor does it otherwise establish a sufficient basis to depart from the principle of open justice.

²⁸ *Hmung and Minister for Immigration and Citizenship (Migration)* [2026] ARTA 416, [29] – [34] (Senior Member A. Nikolic).

34. The lengthy procedural history of this case provides relevant context. No confidentiality order was sought or made in the Applicant's criminal proceedings, the first two Tribunal hearings in 2023 and 2024, or the judicial review proceedings that followed.
35. Having considered the matters in s 71 of the ART Act, the available documents, parties' submissions, and principle that Tribunal proceedings should ordinarily be conducted in public, the Tribunal is not satisfied this is an appropriate case in which to continue the departure from open justice effected by the 2025 confidentiality order. It is therefore rescinded. The Applicant will be referred to by his name in these reasons and in the publication of the Tribunal's decision.

EVIDENCE

Documentary evidence

36. Documents tendered into evidence are listed at Annex A.

Oral evidence

37. The Applicant gave oral evidence under affirmation over most of the first hearing day. He did so almost exclusively with the assistance of an interpreter in the Punjabi language. The only other witnesses he called were Ms BB and psychologist Ms Tina Chatterjee. Both gave evidence under affirmation and adopted their statements and reports as true and correct.
38. At the commencement of the Applicant's evidence, the Tribunal confirmed with Dr Donnelly that the Applicant's privilege against self-incrimination had been discussed. The Applicant adopted his five-page statement dated 22 June 2026 as true and correct. Key aspects of his evidence and that of the other two witnesses are incorporated in the following discussion of relevant primary and other considerations.

PRIMARY CONSIDERATIONS

Protection of the Australian community from criminal or other serious conduct

39. The Tribunal respectfully adopts the principles distilled by the majority of the Full Court in *BNY23*²⁹ when considering the requirements of cl 8.1 of the Direction. In assessing this primary consideration, the Direction reflects the Australian Government's view that the safety of the Australian community is its highest priority.
40. Clause 8.1 requires consideration of:
- (a) the nature and seriousness of the Applicant's past conduct; and
 - (b) the risk to the Australian community should the Applicant engage in further criminal or other serious conduct.
41. In assessing the nature and seriousness of the Applicant's conduct, the Direction requires regard to matters including:
- (a) the seriousness of the offending, including whether it involved violence, sexual offending, family violence or other serious criminal conduct;
 - (b) the sentence imposed by the courts;
 - (c) the frequency, pattern and cumulative effect of the offending;
 - (d) the impact of the offending on victims and their families; and
 - (e) any other matters identified in cl 8.1.1 of the Direction that are relevant to the circumstances of the case.
42. In assessing the risk of future harm, the Direction requires consideration of the nature of the harm that could result and the likelihood of further offending or other serious misconduct.

²⁹ *BNY23 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2025) 307 FCR 150 (Rangiah and Rofe JJ). Their Honours' analysis relates to the previous Direction 99, which is in substantially the same terms as the current Direction.

The nature and seriousness of the conduct

43. Clause 8.1.1 requires consideration of the nature and seriousness of an applicant's crimes and other conduct in its broader context, including its frequency, cumulative effect, sentences imposed, impact on victims, and other relevant factors.
44. The Applicant accepts the accuracy of his criminal history.
45. The Tribunal has considered the Applicant's submissions about the proper characterisation of individual offences, the limited direct evidence of victim impact, and the need to avoid overstating matters not established by the evidence.³⁰ It is uncontroversial he has been convicted on numerous crimes,³¹ which his former lawyer described as "an appalling record".³² His offending commenced within two years of arrival in Australia and frequently involved dishonest conduct that caused financial or property loss. The Applicant accepts this includes stealing money from a petty cash tin at a premises while employed there as a cleaner. He also accepts that his conduct includes obtaining numerous refunds for products that were not purchased. He invokes drug addiction, being "broke", and unable to find work after returning from India in early 2020. While the available evidence does not permit precise findings as to the financial and emotional consequences experienced by victims of the dishonesty offending, it was plainly not victimless.
46. The Applicant has an extensive history of failing to comply with court-imposed obligations. This includes breaching bail, failing to appear in court and other legal contraventions. This history is significant in the assessment under cl 8.1.1 because it demonstrates repeated disregard for the authority of Australia's criminal justice system. The Applicant reoffended despite the April 2021 convictions, suspended sentence of 16 months' imprisonment,³³ and opportunities to comply with legal obligations. The fact that some offending was repeated and occurred in the context of conditional liberty, materially aggravates the Tribunal's overall assessment of his conduct.

³⁰ Applicant's Statement of Facts, Issues and Contentions dated 22 June 2026 ("ASFIC"), 3-8.

³¹ Exhibit R1, 517 – 528, 814 – 823.

³² Ibid 526 [9] – [18].

³³ Ibid 523 [28] – [36].

47. It is uncontested that a five-year Protection Order was issued by a Magistrates' Court on 12 November 2020 to protect Ms AA.³⁴ This required the Applicant to be of good behaviour towards and not commit domestic violence against her. He was also prohibited from trying to locate, contact, follow, or otherwise approach her. The Applicant was convicted of contravening the order by calling Ms AA by telephone and sending her multiple text messages, causing her to be fearful.³⁵ His conduct undermined the protective purpose of the order, and the safety and autonomy interests it was intended to protect.
48. The Applicant's driving-related conduct includes speeding, failing to stop at red lights, unlicensed driving, and driving with methamphetamine in his system.³⁶ The latter has the capacity to endanger other road users and pedestrians and therefore extends beyond mere non-compliance with traffic regulations to conduct that involves a potential risk of causing devastating harm. The Applicant refers to completion of a free online course in May 2025 called "Understanding Driving Safety and Laws",³⁷ which he claimed took him 2-3 days and taught him "about safety...and driving in a healthy way". When asked if he needed a course to understand this, he responded: "Yes".
49. The Tribunal has considered the sentences imposed on the Applicant, including terms of actual imprisonment. This is the most severe punishment under Australian law³⁸ and constitutes a relevant indicator of the seriousness of his crimes.
50. Other conduct may be relevant to the Tribunal's consideration despite not leading to charges or convictions. Notwithstanding the relatively limited drug-related convictions in the Applicant's criminal history, his evidence is that he suffered a significant addiction to heroin and methamphetamine between early 2020 and his arrest in late 2022.³⁹ The Applicant accepts that his use of illicit drugs in Australia extends well beyond the relatively limited scope of drug-related convictions in his criminal history.

³⁴ Ibid 58.

³⁵ Ibid 827.

³⁶ Ibid 810 – 811, 888 – 890.

³⁷ Ibid 102.

³⁸ See for example: Queensland Sentencing Advisory Council, '*Types of penalties and sentences*' (Web Page, updated 27 August 2026) <<https://www.sentencingcouncil.qld.gov.au/about-sentencing/types-of-penalties>>.

³⁹ Exhibit R1, 89 [21].

51. The Applicant was asked about Exhibit A7 during the hearing, which is letter from his mother to a Superintendent of Police in India. This makes serious claims about Ms AA, including that she harassed the Applicant, “filed a false complaint” against him with Australian police, threatened to kill Ms BB and her child, and used “goons” in India to make threats and “spy” on the Applicant’s mother, Ms BB, and Ms BB’s child during their visit to India. The Applicant said his mother “works for police” in India and that some of the information in her letter is inaccurate. When questioned why his mother would make false claims, the Applicant stated: “I really love my mother and didn’t want to break her heart by telling her the truth”. He claimed without evidence that his mother has withdrawn her complaint. The Applicant’s conduct in failing to correct the record with his mother, despite being aware of her claims to Indian Police, had the potential to cause Ms AA adverse consequences.
52. The Applicant denied at the 2023 hearing that he worked in Australia while under temporary visas that were not accompanied with work rights.⁴⁰ A Queensland Police report relating to the offence of “Stealing by clerks and servants”,⁴¹ however, to which the Applicant pleaded guilty, discloses he was “employed” as a cleaner in February 2022 by a company from whom he stole \$657 from a petty cash tin.⁴² The Applicant is also referred to as “employed” when committing this offence during a court appearance on 17 November 2022.⁴³ The Tribunal prefers the fact of the Applicant’s conviction and nature of the charge he pleaded guilty to, which requires him to have fallen within the broad definition of a “clerk or servant”. The distinction of such an offence from other theft offences is plainly an employment relationship and connection between the stolen property and that employment. The Tribunal is satisfied the Applicant worked in Australia on at least this occasion while on a Bridging Visa without work rights.
53. The Applicant was asked about custodial records referring to “Assault – Prisoner on Prisoner” on 18 October 2022, in which he is referred to as a “perpetrator” during a fight with another prisoner.⁴⁴ He accepted the fight occurred and claimed the other prisoner was being “naughty” towards him, “teasing” him, and demanding money. The Applicant said he

⁴⁰ Ibid 936 [35].

⁴¹ Pursuant to s 389.6 of the *Criminal Code Act 1899* (QLD), which ceased to be in force on 1 September 2024 and has been replaced.

⁴² Exhibit R1, 532, 742 - 743.

⁴³ Ibid 693 [15].

⁴⁴ Ibid 899 – 906.

was acting in self-defence but accepted that he and the other prisoner continued fighting despite custodial officers directing them to stop. In terms of the weight given to police or custodial records, their value is routinely tested during questioning as occurred on this occasion. Although such records may not have resulted in charges, the Tribunal can consider them in the context of ‘other conduct’ under cl 8.1.1(1) of the Direction. The Tribunal is required to treat custodial records carefully, however, and acknowledge the “limits of the material before it that was said to evidence such conduct, including its cogency and reliability”.⁴⁵ The Tribunal finds that during this fight, the Applicant acted inconsistently with custodial rules and the directions of an officer.

54. The Applicant’s offending and other conduct cannot reasonably be characterised as isolated lapses. Rather, it reveals a sustained pattern that has harmed others or created potential risks to public safety. The persistent and frequent nature of his crimes, the breadth and number of his convictions, dangerous driving conduct, failures to comply with court-imposed obligations, and the “other conduct” referred to above, produce a significant cumulative effect. The totality of the Applicant’s crimes and other conduct is very serious.

Risk to the Australian community should the non-citizen commit further offences or engage in other serious conduct

55. Clause 8.1.2 of the Direction requires the Tribunal to assess both the nature and seriousness of the potential harm that may result from future offending or other serious misconduct and the likelihood of such conduct occurring. The Direction provides that the more serious the potential harm, the lower the level of risk regarded as acceptable. This requires a forward-looking assessment of recidivism risk within the framework of matters set out at cl 8.1.2(2). Key factors can include the regularity of events occurring in the past, conditions under which these occurred, and likelihood that the conditions have changed or other events have interrupted the cycle of regularity.⁴⁶
56. The Applicant submits that the historical factors underlying his crimes and other conduct have changed. This includes abstinence from heroin and methamphetamine since imprisonment in late 2022, severing ties with drug-taking peers, and engaging in sustained

⁴⁵ *CVN17 v Minister for Immigration and Border Protection* (2019) 163 ALD 101, 124 [100] (Kenny J).

⁴⁶ *CKL21 v Minister for Home Affairs* (2022) 293 FCR 634, 656 [74] (Moshinsky, O’Byrne and Cheeseman JJ).

psychosocial treatment that has meaningfully advanced his insight and commitment to a drug-free and law-abiding life.

57. The Applicant attributes his crimes of dishonesty to supporting his drug addiction but also because he was “really broke” after returning from India in early 2020, with no savings, and being unable to find work. He explained that he rented a room to two people who used drugs and he “fell into it as well”. This involved injecting and smoking heroin and methamphetamine frequently until his arrest and imprisonment in late 2022.⁴⁷
58. The Applicant accepted QScript⁴⁸ evidence relating to an attempt in 2021 and 2022, while living in the community, to cease heroin use under an Opioid Substitution Therapy Program (**OSTP**). This was unsuccessful and he relapsed and reoffended. The Applicant claimed this was because he did not have “enough awareness” at the time but now better understands his “trigger points”. He referred to abstinence from illicit drugs since arrest in 2022 and motivation to be a “responsible husband and father”. He also referred to years “wasted” in custody and the “loss of honour” his conduct caused his family.
59. A placement decision by Queensland Corrective Services in November 2022 refers to the Applicant receiving a “high security classification”, and requiring “the level of structured supervision provided in a high security correctional facility”.⁴⁹ Reference is also made to his assessment under the Risk of Reoffending Prison Version (**RoR – PV**),⁵⁰ as falling “into a category of prisoners who pose a moderate risk of further general offending”.⁵¹
60. Except for the prison fight in October 2022, the evidence otherwise refers to the Applicant as polite and compliant in custody. The Tribunal accepts there is no evidence of renewed fraud, drug use, or crimes since imprisonment in late 2022. This must be seen, however, in the context of him being in controlled and supervised custodial settings, which is probative to the weight afforded to abstinence and law-abiding conduct.

⁴⁷ Exhibit R1, 89 [21]90 [24], 526 [36] – [38].

⁴⁸ Ibid, 128 [05/06/2024], 134 – 135. QScript is Queensland's real-time prescription monitoring system that is used by doctors and pharmacists to track high-risk or dependency-forming medicines.

⁴⁹ Exhibit R1, 845 – 849.

⁵⁰ Carleen Thompson and Anna Stewart, Risk of Reoffending: Probation and Parole Version Screening Tool (2007). See also: <<https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5517t196/5517t196.pdf>>, 109 – 111 [543] – 555.

⁵¹ Exhibit R1, 847, 869.

61. The evidence contains references to the Applicant attending sessions with psychologist Ms Tina Chatterjee since 29 June 2023. His oral evidence is that these were “almost one-and-a-half hours” in duration and delivered in English and Hindi. The Applicant feels these helped him “stay strong”, not allow stress to control his mind, better identify triggers, stay away from drug-taking peers, and approach others for help when needed to control his anger. The Applicant has also referred to the positive effect of attendance on the Smart Recovery Program and fortnightly sessions with a drug counsellor in immigration detention. The Applicant could not recall how many sessions of the latter there had been and his claim about fortnightly attendance is uncorroborated. The Tribunal notes limited references in IHMS⁵² records to drug and alcohol consultations.⁵³
62. When asked about the extent to which he could understand and participate in rehabilitative sessions that were delivered in English, the Applicant responded through the interpreter that he could read, write, understand and “speak English as well”. He said that he struggles with the latter when under stress. When asked about evidentiary references to limited English proficiency,⁵⁴ including in Dr Kwok’s May 2025 report where an interpreter was used, the Applicant explained he did not wish to “take any risks by saying anything wrong”. At one point in the hearing the Applicant was asked to read a paragraph of his own handwritten English notes about family violence and then explain what he understood this to mean. The Tribunal means no disrespect in observing that his responses were limited, general, and did not inspire confidence in his ability to understand what he was reading.
63. The Tribunal has considered letters and relatively brief reports from general psychologist Ms Chatterjee dated 26 August 2023, 29 March 2025, 9 November 2025, 10 June 2026, 20 June 2026, and 22 July 2026.⁵⁵ These relate to both the Applicant and Ms BB. Ms Chatterjee also gave oral evidence, key aspects of which are now summarised:
- (a) Ms Chatterjee confirmed she has been a general psychologist since 2018 but has no specialty in forensic psychology. Since her first consultation with the Applicant in 2023, Ms Chatterjee has seen him a total of 27 times during sessions of about an

⁵² The International Health and Medical Services (IHMS), provides primary and mental health care services within the Australian immigration detention network.

⁵³ Ibid 36, 42, 46.

⁵⁴ Ibid 768, 854 [24/12/2020], 859 [29/11/2022], 861, 938 [42], 943 [1], 985 – 986 [34] – [7].

⁵⁵ Ibid 27 – 28, 235 - 237. Exhibit A10.

hour each. These have been via Telehealth using a mixture of English and Hindi. Ms Chatterjee agreed this is not as effective as in-person consultations.

- (b) At the Applicant's first session, Ms Chatterjee recalled he was not coping, experiencing a lot of stress, and presented with "low mood". Ms Chatterjee was asked about her report dated 10 June 2026, however, which states the Applicant's initial scores on the self-reported Depression and Anxiety Stress Scale ("DASS") were "Normal". She explained that the DASS reflects mental health when administered and may fluctuate significantly when re-administered.
- (c) Ms Chatterjee said this is her first attempt at undertaking a recidivism risk assessment. Her opinion about this in the Applicant's case is based entirely on her clinical observations during their sessions. No objective or actuarial risk assessment methodologies were applied to supplement her clinical opinion.
- (d) Ms Chatterjee said her assessment that the Applicant constitutes a "very low" risk of recidivism reflects active engagement during their sessions, expressions of remorse, and determination to be present in his child's life. She agreed there is no "very low" recidivism rating in her profession, and this is "just [her] opinion". Ms Chatterjee accepts that the Applicant's future risk is impacted by factors such as his rehabilitation not having been tested in the community and ability to avoid adverse "influential people in his life". She considers, however, that the Applicant "has shown things have been different". When asked if the Applicant's failure while in the community in 2021 and 2022 to overcome an opioid addiction through OSTP impacts her opinion about risk, Ms Chatterjee responded "No". She stated: "this time it is different...he is committed...[and]...has actively made changes".
- (e) Ms Chatterjee is unfamiliar with the ROR-PV methodology used in 2022 to assess the Applicant as a moderate risk of general reoffending. She observed, however, that this assessment pre-dates their counselling sessions and re-application of the ROR-PV is needed to ascertain if his recidivism risk has changed.
- (f) Ms Chatterjee considers the Applicant's mental health has "gone down significantly" since early 2026, although his symptoms still do not rise to the level of a diagnosed psychological disorder under DSM-5. Interventions she has used to address his symptoms include Cognitive Behavioural Therapy, mindfulness, relaxation /

breathing exercises, and strategies to get into a routine. Ms Chatterjee considers the Applicant “quite receptive” and focussed on “bettering himself”.

- (g) If released in Australia, Ms Chatterjee said she will continue to treat the Applicant and Ms BB, including by increasing their sessions if needed. She believes the Applicant will continue doing Smart Recovery courses in the community and any other sessions to develop him. When asked if there is any conflict of interest in continuing to see both the Applicant and Ms BB, Ms Chatterjee said there could be, but feels this can be managed. She explained that the Applicant’s and Ms BB’s clinical presentations are different, “don’t overlap”, and counselling sessions can be held separately without referring to the other partner.
- (h) If the Applicant is returned to India, Ms Chatterjee said his mental health will be adversely impacted. She stated: “back in India mental health is not a big thing like here.” Ms Chatterjee said her counselling with the Applicant could not continue because of her registration and not being insured overseas. She said an adverse decision is also likely to adversely affect Ms BB’s mental health who she believes needs to see a psychiatrist. This is because past engagement with Ms Chatterjee and a general practitioner has not materially improved her symptoms. Ms Chatterjee believes Ms BB’s symptoms are linked to physical health and her child’s interests.

64. The Tribunal has considered reports by clinical and forensic psychologist Dr Emily Kwok dated 30 August 2023⁵⁶ and 10 May 2025.⁵⁷ These were commissioned by the Applicant’s previous solicitor. Dr Kwok was not called to give oral evidence in this proceeding. A summary of Dr Kwok’s 2025 report follows:

- (a) Dr Kwok conducted an hour-long interview with the Applicant on 14 April 2025. This was by video from the immigration detention centre and assisted by an interpreter in the Punjabi language. She sets out in her report what documents were available. Dr Kwok also spoke with Ms BB for about an hour on the same day.
- (b) Dr Kwok stated she was unable to administer psychometric assessments to the Applicant because of his “low” English ability.

⁵⁶ Exhibit R1, 462 – 473.

⁵⁷ Ibid 86 – 101.

- (c) Dr Kwok opined that the Applicant's mental health symptoms were related to drug use and triggered by an adjustment disorder attributable to his claims about the death of a "younger brother who was allegedly killed in a car accident in 2020". She also cited financial difficulty and the Applicant "allegedly" learning that Ms AA "was having an extramarital affair". The Applicant is noted to have coped poorly with these events, associated with antisocial peers, and received easy access to heroin and methamphetamine. Dr Kwok did not assess him at the time of their 2025 consultation as satisfying any diagnostic criteria for a mental health condition or illness.
 - (d) Dr Kwok assessed the Applicant as responding well to psychological treatment and stated his next steps of treatment "should be focussed on reintegration and applying the skills he has learnt to community living". If released in Australia it was recommended that he remain with a psychologist and AOD groups for at least the first six months while readjusting to prosocial living.
 - (e) If the Applicant was returned to India and experienced a change in his mental health, Dr Kwok stated there is assistance available under the Government's National Mental Health Programme, including at the primary care level, although there are barriers to access because of factors such as location, income, and stigma around mental health. Dr Kwok considers it would be difficult for the Applicant to access treatment if required, although the basis of this is not elaborated upon.
 - (f) Dr Kwok highlighted substance abuse, reassociation with adverse peers, lack of prosocial support, poor coping, and unemployment as the main risk factors. Given his abstinence from illicit drugs, attendance with SMART Recovery groups, engagement with a psychologist since June 2023, and completion of online courses, Dr Kwok assessed him to be a "low risk of committing criminal offences in the future".
 - (g) In terms of family violence, Dr Kwok said there is insufficient information for her to express an opinion on the violence that occurred with Ms AA "if any".
65. The evidence contains certificates and other materials referring to the Applicant undertaking courses in custody, which he claims has meaningfully addressed his drug addiction, family

violence awareness, and other rehabilitative needs. These include courses with free online organisations called Universal Class and Alison as follows:⁵⁸

- (a) Drug and Alcohol Abuse 101 dated 10 January 2023 (7 contact hours);
- (b) Stress Management dated 16 May 2023 (4 contact hours);
- (c) Anger Management 101 dated 16 May 2023 (5 contact hours);
- (d) Depression Management dated 17 May 2023 (5 contact hours);
- (e) Domestic Violence 101 dated 19 May 2023 (8 contact hours);
- (f) Behaviour Management 101 dated 29 June 2023 (8 contact hours);
- (g) Positive Parenting Techniques dated 29 June 2023 (5 contact hours);
- (h) Understanding Addictions dated 30 June 2023 (10 contact hours);
- (i) Starting Your Own Cleaning Business dated 16 July 2023 (5 contact hours);
- (j) Workplace Drug Use – An HR Guide dated 16 July 2023 (6 contact hours);
- (k) Child Safety for Parents dated 17 July 2023 (5 contact hours);
- (l) Healthy Relationships dated 28 November 2023 (7 contact hours);
- (m) Listening Skills dated 29 November 2023 (5 contact hours);
- (n) Anxiety Therapy dated 2 December 2023 (5 contact hours);
- (o) Critical Thinking dated 3 December 2023 (5 contact hours);
- (p) Personality Development dated 9 December 2023 (7 contact hours);
- (q) Home Safety dated 12 December 2023 (5 contact hours);
- (r) Problem Solving Strategies dated 16 December 2023 (3 contact hours);

⁵⁸ Universal Class is an online provider of free and fee-based self-paced courses.

- (s) Social Anxiety 101 dated 20 December 2023 (6 contact hours);
- (t) Understanding Learning Styles dated 23 December 2023 (7 contact hours);
- (u) The Art of Setting Goals dated 25 December 2025 (5 contact hours);
- (v) Community Development 101 dated 27 December 2023 (8 contact hours);
- (w) English Grammar Level 1 dated 1 January 2024 (11 contact hours);
- (x) Basic English Speaking Skills dated 9 January 2024 (7 contact hours);
- (y) Lifetime Wellness 101 dated 19 January 2024 (7 contact hours);
- (z) Creative Thinking dated 26 January 2024 (5 contact hours);
- (aa) Emotional Healing 101 dated 8 February 2024 (6 contact hours);
- (bb) Building Self Esteem dated 28 February 2024 (3 contact hours);
- (cc) Confidence Building dated 3 March 2024 (6 contact hours);
- (dd) Emotional Intelligence dated 14 November 2024 (5 contact hours);
- (ee) Personal Communication Skills dated 16 November 2024 (7 contact hours);
- (ff) How to Improve Your Concentration dated 17 November 2024 (3 contact hours);
- (gg) Understanding concussions dated 5 December 2024 (7 contact hours);
- (hh) Psychology 101 dated 27 December 2024 (16 contact hours);
- (ii) Certificate from Alison⁵⁹ dated: 11 May 2025 for Understanding Driving and Safety Laws.

66. A review of the online presence for Universal Class and Alison discloses these free courses are largely informative rather than therapeutic. Their completion is to the Applicant's credit, but the Tribunal is unpersuaded they have meaningfully advanced his rehabilitation. This

⁵⁹ Exhibit R1, 102 – 103. Alison is a free online education platform offering vocational and educational courses.

includes because there is scant evidence about what the courses covered, their relevance to the Applicant's needs, the extent to which the Applicant understood and internalised the information presented, what assessment criteria were used to determine satisfactory completion, and the incidence of several courses being completed in a single day despite them purporting to be based on between 9 and 13 contact hours. The courses are in English and the Applicant's English is quite limited. On balance, little weight is placed on the Universal Class and Alison courses in the context of the Applicant's rehabilitative needs.

67. There is other evidence referring to the Applicant's involvement in other rehabilitative activities. This includes letters from Turning Point, IHMS file entries referring to online attendance at SMART Recovery meetings,⁶⁰ and certificates dated 2025 about attendance at sessions of Group Therapy or other counselling in custody.⁶¹
68. An IHMS record was raised with the Applicant that states he admitted to intravenous drug use four months prior to a report dated January 2023.⁶² This would have meant he used illicit drugs while imprisoned in late 2022. The Applicant denied this and said the last time he used heroin and other illicit drugs was before imprisonment in late 2022. There is no persuasive evidence to the contrary, and the Tribunal places no weight on the possibility he may have used illicit drugs in custody.
69. The Applicant's evidence centres prominently on Ms BB and their child as protective factors. It is noteworthy he concealed his drug addiction from Ms BB and participation in the OSTP in 2021 and 2022 until after their marriage. He claims to have been entirely honest with her since. If allowed to remain in Australia, the Applicant intends living with Ms BB and their child in a house Ms BB owns. He will help with childcare and, subject to gaining work rights, will become involved in her cleaning business. He also intends continuing with rehabilitation by obtaining a mental health care plan from a general practitioner. If returned to India, the Applicant claims to have no family support, and his rehabilitative efforts would likely end.
70. The Tribunal accepts that the Applicant's current family circumstances may provide some protection against future offending. However, is unable to regard those circumstances alone

⁶⁰ Ibid 1108 – 1147; Exhibit A6.

⁶¹ Ibid 30 – 52.

⁶² Ibid 134 [13/01/2023].

as demonstrating that the risk has been eliminated or reduced to an acceptable level. The Applicant's past offending occurred notwithstanding family responsibilities. He reoffended after marrying Ms BB and the birth of their child. He also concealed drug use from her until some point after their marriage. In those circumstances, the Tribunal does not accept that the interests of Ms BB and their child, while relevant, is by itself a sufficiently reliable indicator of his commitment to abstinence and leading a law-abiding life.

71. The Tribunal accepts that the Applicant has undertaken a range of rehabilitative activities in custody, including sustained psychological treatment, some drug counselling, SMART Recovery Program participation, and limited domestic violence education. The Tribunal also accepts these matters, together with his expressed remorse and stated commitment to Ms BB and their child, are relevant protective factors and indicate that his risk of reoffending may now be lower than it was at the time of his past offending. The Tribunal nevertheless gives those matters limited weight in assessing future risk. This includes because his claimed rehabilitative progress has occurred in structured custodial environments rather than in the community where his persistent offending occurred. Accordingly, the Tribunal is uncertain whether his claimed behavioural changes and coping strategies will be sustained when exposed to ordinary stressors, a close domestic relationship, freer access to illicit drugs and other circumstances previously contextualising and contributing to his offending.
72. The Tribunal has considered Ms Chatterjee's opinion that the Applicant's current risk of future offending is "very low". The Tribunal places limited weight on the predictive validity of this opinion. Ms Chatterjee accepts there is no rating of "very low" in the available recidivism ratings and her opinion is entirely based on the Applicant's clinical presentation, approach to treatment during Telehealth counselling and self-reported commitment to change. Ms Chatterjee does not have an endorsed specialty in forensic psychology or neuropsychology and has not previously made a recidivism risk assessment of this sort. Her clinical opinion is also unsupported by objective or actuarial risk-assessment measures. Ms Chatterjee was unaware of the Applicant's previous unsuccessful efforts in 2021 and 2022 to overcome his addiction with OSTP injections and she has not had access to all the available documents in this proceeding. The Tribunal accepts that those matters do not render Ms Chatterjee's opinion without value, but they affect the weight placed upon it.
73. Ultimately, the Tribunal accepts that the Applicant's risk of reoffending may have reduced since imprisonment in 2022, including because of the rehabilitative steps he has undertaken.

However, the question under cl 8.1.2 is not whether there is evidence of rehabilitation, or whether the risk is lower than previously. The question is whether, having regard to the nature and extent of the applicant's past conduct, the likelihood of further offending and the nature and seriousness of the harm that could result, the risk to the Australian community is acceptable. In the Tribunal's view, it is not.

74. The Applicant's criminal history demonstrates repeat offending associated with heavy illicit drug use, anti-social influences, poor coping strategies and significant personal stressors. He was not dissuaded despite being on a temporary visa and while awaiting a decision on a permanent visa application, or the consequences of his April 2021 convictions. When asked during the hearing why the prospect of permanent residency was not a more meaningful motivator to "clean up his act", the Applicant responded unpersuasively "I was not aware of the seriousness of these matters" and again invoked the death of his brother. The Applicant properly accepted, however, that most people experiencing the death of a loved family member do not resort to polysubstance drug addiction, numerous crimes, and other misconduct.
75. Although some of the circumstances surrounding the Applicant's crimes and other conduct have changed, he has not demonstrated a sustained period of lawful and drug-free conduct at liberty in the community. Additional concerns arise from his mother's 2025 letter seeking police action against Ms AA in India based on information the Applicant knew to be false. If he were to reoffend in a comparable manner or engage in other similar misconduct, the potential financial, psychological and physical harm to members of the community could be substantial. Dr Kwok's assessment that unemployment is one of the main risk factors for the Applicant if released is noteworthy because the Bridging Visa he would be on has no work rights.
76. Having regard to the totality of the evidence, the Applicant's recidivism risk falls somewhere between low and moderate. Some of his conduct, such as family violence, falls into a category where even a low probability of repeat can be considered unacceptable. His extensive past crimes and other conduct, including while awaiting a decision regarding a permanent visa application, during periods of conditional liberty, and despite marriage to Ms BB and the birth of their daughter, are noteworthy. When coupled with the seriousness of potential consequences if he reoffends, past failure of rehabilitative efforts in the community during 2021-2022, and continuing unmet rehabilitative needs, the Tribunal finds

that the risk he poses to the community is unacceptable. In terms of unmet needs, the Tribunal notes guidance in the Direction that decisions should not be delayed for rehabilitation to be undertaken.⁶³ In terms of cl 8.1.2(2)(c) of the Direction, this is not a case where the Applicant seeks to stay Australia temporarily or there are circumstances relevant to the grant of a short stay visa. He intends staying permanently. On balance, the Tribunal finds that the nature and seriousness of the Applicant's offending, other conduct, and risk of reoffending, weigh very substantially in favour of affirming the reviewable decision.

Family violence committed by the non-citizen

77. Clause 8.2 of the Direction recognises the Australian Government's concern about conferring on non-citizens, who perpetrate family violence, the privilege of entering or remaining in Australia. The consideration is relevant where the non-citizen has been convicted of family violence offences or where there is information from independent and authoritative sources indicating involvement in family violence, provided that procedural fairness has been afforded. In assessing this consideration, the Tribunal is required to have regard, where relevant, to factors such as the frequency and seriousness of the family violence, its cumulative effect, the extent of any rehabilitation, the non-citizen's acceptance of responsibility and insight into the impact of their behaviour and whether there has been further offending or other relevant conduct following formal warnings.
78. The evidence discloses several incidents and categories of conduct involving the Applicant and Ms AA. It is necessary to distinguish between convictions and conduct admitted by the Applicant and allegations contained in other material that are denied.
79. It is an established fact that a domestic violence order was in force regarding Ms AA in 2021 and that the Applicant contravened this by telephoning her and asking whether she had filed a complaint against him. As noted earlier, the Applicant was convicted of contravening the domestic violence order and sentenced to one month imprisonment. The existence of a formal court order was insufficient to deter him from further prohibited contact.
80. In relation to the remaining allegations, the Tribunal has considered the available evidence, including that associated with Ms AA's application for a protection order. This records

⁶³ The Direction cl 8.1.2(2)(b)(ii).

allegations that the Applicant mentally, emotionally and physically harassed her, including by sending emotionally charged text messages; sending videos of himself pretending to drink weed killer; monitoring her location; attending her workplace, following her; slapping her; and, on another occasion, entering her vehicle and forcefully attempting to be intimate with her. The fact that the allegations were put before the Magistrates Court and a domestic violence order was made on 12 November 2020 is relevant and constitutes an independent source of information. However, the Tribunal does not regard the making of the order, without more, as conclusive proof of every allegation in this material. The Tribunal has instead considered the content, source and circumstances of the material, together with the other evidence.

81. The Applicant accepted during oral evidence that he sent Ms AA further texts and videos of himself pretending to drink weed killer. During oral evidence he also stated that he knew a letter his mother wrote to police in India alleging serious criminal conduct by Ms AA was false but did not correct this. This behaviour also falls within the meaning of family violence under cl 4(1) of the Direction and was properly addressed as such in closing submissions.
82. The Applicant denies that he monitored Ms AA's location, attended her workplace, followed, or physically abused her. Notwithstanding the reference at cl 8.2(2)(b) of the Direction to potential reliance on "information from independent and authoritative sources", there is simply insufficient probative evidence to counter his denial of these allegations. Weight is therefore placed only on the domestic violence contravention established by the Court and the other family violence conduct the Applicant accepts.
83. Aspects of the Applicant's oral evidence contextualise his family violence conduct as "going through a situation at the time that was beyond [his] control". He explained this resulted from the emotional impact of his brother's death and Ms AA's infidelity. Moreover, while accepting he should not have sent Ms AA messages or videos pretending to drink weed killer, he attributed this to "shock, trauma, drugs" and being unable to "make healthy decisions". The Applicant further contextualised his messaging of Ms AA as for the "sake of [their] child". When pressed by Mr Duldig, the Applicant agreed that calling Ms AA to ask if she filed a complaint against him had nothing to do with their child's interests.

84. The Applicant claims not to have had any contact with Ms AA since October 2021 but expressed awareness of where she lives in India with her new husband. He said “mutual relatives” informed him of this.
85. The Applicant refers to his handwritten notes about family violence as helping him identify future triggers so as not to repeat his actions. He said these were sourced from courses, podcasts and online sources. The Applicant referred to a strategy of “pause”, “walk away”, and to later discuss issues in a calm way. He spoke of a free online course completed on 7 May 2026 with “Alison Empower Yourself” called the “Fundamentals of Domestic Violence”. The Applicant could not recall how long it took to complete this but thought it may have been 5-6 hours. When asked why he only completed the course quite recently, the Applicant said it was to “keep busy” and improve himself. The Applicant said he has also covered family violence content during his sessions with Ms Chatterjee.
86. The Tribunal is satisfied the Applicant's accepted family violence conduct caused, or was capable of causing, Ms AA to fear him, feel unsafe in his presence, elicit insecurity and emotional distress. The messages and videos in which he pretended to drink weed killer, when viewed in the context in which they were sent and the broader pattern of emotionally charged communications, could have placed significant emotional pressure upon her. The Tribunal infers from the circumstances that the conduct was directed, at least in part, to influencing or manipulating Ms AA's responses. It was a serious form of emotionally coercive or threatening conduct. Failing to disclose his family violence conduct against Ms AA to his mother, or to correct the false claims contained in his mother's 2025 letter to Indian authorities, potentially exposed Ms AA to serious consequences. The relatively recent nature of this letter, and the Applicant's conduct relating to it, impacts the persuasiveness of his claims about insight into family violence.
87. Having regard to clause 8.2(3)(a) and (b), the Tribunal finds that the Applicant's accepted family violence conduct was serious in its individual manifestations and cumulative effect.
88. The Tribunal has considered the matters in clause 8.2(3)(c), including the extent to which the Applicant accepts responsibility for his conduct, understands its impact upon the abused person, and has made efforts to address factors contributing to the conduct. The Applicant accepts that contravening the order was serious and expresses remorse. There is material before the Tribunal concerning subsequent rehabilitation, including psychological treatment,

drug and alcohol counselling, SMART Recovery and other group interventions, some domestic violence education and the Applicant's own written reflections concerning family violence. The handwritten notes can support a finding of developing insight, acceptance of responsibility, and bear upon the extent to which the Applicant has taken steps to address dynamic factors associated with past behaviours. This is relevant to the assessment required by cls 8.2(3)(c)(i)-(iii) of the Direction.

89. The Tribunal nevertheless approaches that evidence with appropriate caution. Rehabilitation and insight do not retrospectively diminish the seriousness of past family violence conduct. Nor should expressions of remorse be accepted uncritically where the Applicant has referred and continues to refer in this proceeding to circumstances claimed to be associated with the breakdown of his relationship with Ms AA, or the sake of their child, or not having control of his responses. The question is whether, assessed as a whole, the evidence demonstrates a genuine and developing acceptance of responsibility rather than an attempt to justify or minimise past family violence. As noted above, the Applicant continues to advance inapposite reasons as context for past behaviour against Ms AA. Notwithstanding his evidence about better understanding his “triggers” and possessing strategies to address these, it remains uncertain how he might respond in a domestic context if again confronted with stressors such as the death of a relative, breakdown of a relationship, or felt he was acting for the sake of his child. Dr Kwok’s assessment that unemployment is one of main future risk factors is also relevant given the Applicant’s future intention to work is conditional on obtaining work rights, which remains uncertain.
90. Clause 8.2(3)(d) of the Direction requires particular attention. The Applicant did reoffend by contravening the domestic violence order after it was made, which is a serious aggravating feature. It demonstrates that, at the relevant time, a formal warning and protective intervention were insufficient to prevent further prohibited conduct. This clause is not confined, however, to the existence of the contravention. He has accepted some of the allegations associated with Ms AA’s application for a protection order. The letter sent by his mother in 2025 to Indian police is also relevant to the evaluative weight given to this primary consideration and the extent to which risk factors associated with historical conduct may have been addressed.
91. Weighing all these matters together, the Tribunal finds that the family violence primary consideration weighs moderately against revocation. The weight given reflects the

seriousness and cumulative nature of the established conduct, balanced against factors such as the Applicant's remorse, evidence of developing insight, and engagement with some rehabilitative interventions.

The strength, nature and duration of ties to Australia

92. Clause 8.3 of the Direction requires consideration of the impact of cancellation upon an applicant's immediate family members in Australia and the strength, nature and duration of their other ties to the community. Relevant considerations include the length of residence in Australia, whether offending commenced soon after arrival, any positive community contribution, and the nature and strength of family and social connections.
93. The Applicant's evidence focussed on his closest relationships in Australia with Ms BB and their child. They are immediate family members for the purposes of cl 8.3(1). He said the relationship with Ms BB is very strong and includes daily phone calls and weekly visits. He said she urgently needs his support and as evidence of their closeness and dependency claims she has given him authority over "all the bank accounts". The Applicant similarly said he is also very close to his four-year-old child despite his circumstances and that she messages him "first thing every morning saying I love you Papa". The Applicant agreed that Ms BB's mother is currently supporting her in Australia but claimed that her Visitor Visa expires in October 2026. The Tribunal observes that aspects of the evidence about Ms BB's mother are inconsistent or lacking corroboration. For example, the Applicant claimed in his most recent statement dated 22 June 2026 that Ms BB's mother "returned to India last year" but came "back to assist".⁶⁴ Ms BB told Dr Kwok in May 2025, however, that her mother visited in 2018, 2019 and had most recently been living with her "for over two years". The Applicant claimed in oral evidence that support from Ms BB's mother is limited to tasks such as food preparation because of her age and health and no one else is available to assist. Evidence at the 2023 hearing, however, was that Ms BB's sister was providing assistance.⁶⁵ There is no evidence in this proceeding from Ms BB's mother and claims about her past and current Australian visa circumstances rest on assertion alone.

⁶⁴ Exhibit A1, 2 [14].

⁶⁵ Exhibit R1, 935 [22].

94. Ms BB's oral evidence is that before their marriage, she was unaware of the Applicant's drug addiction, unsuccessful OSTP attempt in 2021-2022, and initial convictions in April 2021. She became aware after "finding drugs in his clothing" in 2022.⁶⁶ Ms BB claims this is also when the Applicant told her his drug addiction resulted from a sibling's death in India and Ms AA's infidelity. She stated her family advised her several times to divorce the Applicant,⁶⁷ but she tried to assist him through an appointment with a general practitioner and referral to a psychiatrist.⁶⁸ Ms BB recalled the Applicant being re-arrested on new charges before this could occur. When asked about her oral evidence at the 2023 Tribunal hearing that she did know about the Applicant's April 2021 convictions before they married,⁶⁹ Ms BB claimed she had some understanding but not "the exact charges" and "didn't ask" the Applicant about the specifics. That is because she believed "he was a good man" and looked forward to their life together".
95. Ms BB said she has a strong current relationship with the Applicant and can't imagine living without him. They speak daily by telephone, and she visits him weekly with their child. Ms BB's evidence centred on the difference the Applicant could make in the family home by looking after their child, enabling her to address health issues and re-acquire cleaning contracts. Relying on Exhibits A8 and A9, Ms BB said the Applicant's assistance would also allow her to better manage her health and that of their daughter. She referred to the recent cancellation and re-scheduling of some appointments.
96. The Tribunal has considered evidence relating to Ms BB's mental health.⁷⁰ This includes Ms Chatterjee's reference to symptoms such as disturbed sleep and reduced ability to manage stress. Ms Chatterjee recommends that Ms BB sees a psychiatrist because her symptoms have not meaningfully improved despite their consultations. Ms Chatterjee considers these symptoms are substantially associated with, or exacerbated by, prolonged separation from the Applicant and the burden of sole caregiving responsibilities. She further considers that the Applicant's presence would significantly reduce Ms BB's caregiving burden and improve the overall wellbeing of the family unit.

⁶⁶ Ibid 180 [17].

⁶⁷ Ibid 181 [21].

⁶⁸ Ibid 181 [23] – [24].

⁶⁹ Ibid 955.

⁷⁰ Ibid 623 – 624; Exhibit A1.

97. Ms Chatterjee's opinion is relevant to the likely psychological and practical consequences of non-revocation and is given appropriate weight. The Tribunal has not treated the limited medical evidence,⁷¹ however, as establishing that all of Ms BB's health issues are caused by the Applicant's absence. Rather, it is accepted that prolonged separation and the burden of sole caregiving are significant factors affecting her wellbeing. The letter from her general practitioner dated May 2026 is noted, although this erroneously claims Ms BB "has no immediate family member...that can provide ready support". The letter is also to the effect that Ms BB's conditions require "ongoing monitoring, treatment, and specialist care, including "specialist assessment for recent cardiac-related concerns". There is a dearth of evidence regarding the outcome of any monitoring or specialist assessment. The Tribunal nevertheless accepts that Ms BB has experienced physical health difficulties, including a period of hospitalisation of approximately five days in January 2026. The evidence also establishes that she has been required to manage substantial parenting, household and other responsibilities while the Applicant has been absent since 2022.
98. Ms BB's evidence is that in the event of non-revocation, she will not accompany the Applicant to India because her life and that of their child is established in Australia.⁷² She has travelled to India with her child in the past, most recently in 2025, staying with her mother. She also spent four days with the Applicant's mother. Ms BB nevertheless claimed it was "not possible" for her and the child to visit the Applicant in India if returned. She said this includes because her mother is currently in Australia, work commitments relating to her cleaning business, and not being able to "afford to buy tickets". When challenged that her past visits suggest it would be possible to visit, Ms BB invoked mortgage payments, car insurance costs, and the absence of "backup" in India.
99. The relationship between the Applicant, Ms BB and their child has necessarily been maintained mostly through remote contact. But this does not diminish its significance. Rather, it demonstrates that their relationships have continued despite practical constraints arising from the Applicant's custodial circumstances. Prolonged family separation has resulted from the Applicant's crimes and subsequent imprisonment / immigration detention. That matter is relevant to the weight given to this consideration. However, it does not answer the separate question under cl 8.3(1), namely, what impact the present decision would have

⁷¹ Ibid 65, 68, 248 – 249, 577 – 578, 623; Exhibits A8, A9 and A11.

⁷² Exhibit R1, 92 [42]; 93 [51].

upon immediate family members. The fact that existing hardship is connected to the consequences of the Applicant's past conduct does not render irrelevant the additional or continuing hardship likely to result from non-revocation.

100. The Tribunal has considered the impact upon the Applicant's child in this section as an immediate family member for the purposes of cl 8.3(1). The child's best interests are also considered separately under cl 8.4. The impact on the child is significant. An adverse decision would prolong, and potentially make long-term, separation from the Applicant. The consequences would include the Applicant's continuing absence from the child's day-to-day life and the loss, or substantial diminution, of his capacity to provide practical care and participate directly during an important stage of development. The practical consequence of an adverse decision is unlikely to be preservation of the family unit through joint relocation because Ms BB and their child appear likely to remain in Australia. The Tribunal accepts Ms BB has an established life here and would face substantial practical difficulty in relocating to India permanently or for prolonged periods with their child. The Tribunal does not accept her evidence about not being able to visit the Applicant in India given she has visited India in the past. The decision not to accompany the Applicant, if that was the outcome, would undoubtedly be a difficult but ultimately personal decision.
101. Overall, the Tribunal finds that an adverse decision would have real and significant emotional, practical and, in the case of Ms BB, potentially adverse psychological consequences. The Tribunal therefore regards the likely impact of an adverse decision upon Ms BB and her child as an important factor in the Applicant's favour under clause 8.3(1).
102. The Tribunal next considers the strength, nature and duration of the Applicant's other ties to the Australian community. There are matters that materially limit the weight to be given to this aspect of cl 8.3. The Applicant did not grow up in Australia. His formative years and early adult life till almost 24 years of age were spent in India. He arrived in Australia on 29 June 2018 and committed his first offence on 9 September 2020, approximately two years after arrival. Consistently with the Direction, this reduces the weight to be given under this primary consideration.
103. Since the Applicant's offending commenced, a considerable proportion of his time in Australia has been spent in prison or immigration detention. Those periods are relevant in limiting his opportunity for employment and participation in the broader community.

However, the fact of imprisonment or immigration detention are not considered as separate adverse factors under clause 8.3 beyond relevance to the actual strength, nature and duration of his ties. Nor does the Tribunal treat the interruption to his employment and community participation as establishing that he has no meaningful Australian connections. His family relationships and treatment supports have continued to develop or be maintained notwithstanding time in custodial settings.

104. Before his offending commenced, the Applicant made limited positive contributions. Between 2018 and early 2020, he refers to work as a cleaner, driver,⁷³ and paying some taxes. His employment history, however, includes stealing money while working as a cleaner. The Applicant has also undertaken some volunteer work at a Sikh temple.⁷⁴ In his oral evidence he claimed this involved cleaning and food preparation. Activities such as employment and involvement with an ethnic / religious community suggest broader community involvement. They are relevant positive matters, although their relatively limited duration and extent constrain the weight given.
105. The Tribunal takes into account the expressions of support provided by three Australian citizens.⁷⁵ One is Ms BB's cousin, another is a longstanding family friend of Ms BB, and the other is Ms BB's ex employer. This is relevant but modest evidence of the Applicant existing connections and available support in Australia. The Tribunal gives the brief letters some weight, which is necessarily moderated by the nature of the authors' relationships with the Applicant, the extent of their direct knowledge of matters relevant to the present decision, and the fact that expressions of personal support are not independent assessments of his overall character or future risk. There is also reference to Ms BB's parents and sister assisting her in Australia, although they were not called as witnesses. Moreover, the evidence about whether they fall within the meaning of this primary consideration and the nature of any current relationship they may have with the Applicant is scant.
106. The Tribunal has also considered the Applicant's established treatment and rehabilitation supports in Australia. This includes engagement with Ms Chatterjee, some drug and alcohol counselling, and SMART Recovery attendance. Those connections form part of the

⁷³ Exhibit R1, 936 [21].

⁷⁴ Ibid 961.

⁷⁵ Exhibits A12 – 14.

practical support structure available to him in Australia and are relevant to the nature of his present ties to this country.

107. To the extent the Applicant relies upon proposed future arrangements, including living with Ms BB and their child, continuing rehabilitation, seeking work rights, and engaging with Ms BB's cleaning business, the Tribunal treats those matters as prospective rather than established ties. Their weight is therefore limited to the extent that they are contingent upon the outcome of the present decision and other practical matters, including the Applicant being granted a work entitlement. Nevertheless, the proposed arrangements provide some evidence of the support structure and intended pathway available to the Applicant if permitted to remain in Australia.
108. The Tribunal finds that the impact of an adverse decision upon the Applicant's immediate family weighs in his favour. The evidence establishes more than the ordinary emotional hardship commonly accompanying family separation. The Applicant has a young child with whom he maintains an ongoing relationship, and a wife who is experiencing significant health difficulties while undertaking substantial sole caregiving responsibilities and trying to run a business. The medical evidence, while limited, supports a conclusion that the Applicant's continued absence is a material factor affecting the wellbeing of the family unit and that his presence would likely provide meaningful practical and emotional support.
109. The Tribunal nevertheless does not give this primary consideration significant or determinative weight. The Applicant arrived in Australia as an adult and commenced offending within approximately two years of arrival. His period of residence prior to offending was relatively short. Any positive contribution through employment, volunteering and broader community participation is limited in duration and extent.
110. The Tribunal has also considered that the hardship experienced by the Applicant and Ms BB in a relationship sense arises predominantly from circumstances connected with his crimes and resulting visa consequences. That does not negate present hardship, nor diminish the relevance of expert evidence concerning likely consequences of continued absence. It is relevant, however to the overall weight afforded.
111. Balancing these matters, the principal source of favourable weight is the nature and likely consequences of the Applicant's Australian family relationships, particularly the emotional,

practical and perhaps future financial impact of continued separation upon Ms BB and their young child. His broader community ties are modest, limited by adult arrival, the relatively short period before he commenced offending, and the limited duration of his employment, volunteering and other positive contribution. The Tribunal concludes that this primary consideration weighs no more than moderately in favour of revocation.

Best interests of minor children in Australia affected by the decision

112. Clause 8.4 of the Direction requires the Tribunal to determine whether non-revocation under s 501CA, is or is not in the best interests of each child affected by the decision.⁷⁶ It is generally for an Applicant to “identify the personal facts and circumstances relevant to the decision”.⁷⁷ The consideration applies only to a child who is, or would be, under 18 years of age at the time the decision is made. Where there is more than one relevant child, their best interests should be considered individually to the extent these differ. The inquiry is child-centred rather than directed to whether the outcome is in the Applicant's interests. Nor is it answered merely by asking whether a child could continue to be adequately cared for in an applicant's absence. The Tribunal must assess on the available evidence what outcome is in the best interests of each affected child.
113. In undertaking this assessment, the Tribunal has had regard, where relevant, to the nature and duration of each child's relationship with the Applicant, the likely impact of the decision, and any views expressed by relevant children, having regard to their age and maturity. Decision-makers must also have regard to factors such: as any known vulnerabilities; the extent to which a non-citizen has played, or is likely to play, a positive role in the child's life; likely consequences of separation and the ability to maintain contact by other means; the existence of other persons who fulfil parental roles; and any evidence that a child has been exposed to family violence or has suffered physical or emotional trauma arising from an applicant's conduct. After assessing the circumstances of each affected child, this primary consideration is then weighed with the other relevant considerations under the Direction.

⁷⁶ *Tohi v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2021) 285 FCR 187, 240 [180] (O'Bryan J), citing *Spruill v Minister for Immigration and Citizenship* (2012) 135 ALD 45 at [18]-[19] (Robertson J); *RGCZ v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2022) 295 FCR 365, 376 [44] (Bromberg, O'Callaghan and McEvoy JJ).

⁷⁷ *Ismail* [23]; *Uelese v Minister for Immigration and Border Protection* (2015) 256 CLR 203 at 221 [61] (French CJ, Kiefel, Bell and Keane JJ).

114. The Tribunal accepts the general proposition that children may benefit from positive paternal involvement,⁷⁸ but this is not determinative. It is also accepted that commission of serious crimes does not, without more, prevent an offender from being a loving parent.⁷⁹
115. The Applicant invokes the interests of three children. One is his child with Ms BB and the other two are the children of friends.⁸⁰ The Tribunal will refer to them in this order as child A, child B and child C. Their respective relationships with the Applicant differ materially. The Applicant also has a biological child with Ms AA, who lives overseas and is currently 10 years' old. The Applicant claims his mother and this child left for the United States in 2025, and he has limited contact with them. There is no current evidence from the Applicant's mother or the child in this proceeding. Moreover, the child does not fall within the meaning of this primary consideration, which refers to the "Best interests of minor children in Australia". Their interests are not further considered.
116. Child A is the Applicant's biological child with Ms BB and currently four years of age. The Applicant maintains contact with A through video calls and visits, and there is evidence A asks for the Applicant when they are apart. This is evidence of an existing relationship and emotional attachment. However, the Tribunal does not treat A's requests for her father as a maturely expressed view concerning the outcome of the present proceeding. Rather, given her age, that evidence is treated as relevant to the nature of her attachment to him.
117. The Tribunal notes Ms BB's evidence at the 2025 Tribunal hearing about A being raised with the assistance of her mother and only speaking Punjabi, which has caused her to cease childcare and for the child to spend periods of time with Ms BB's parents in India.⁸¹ This evidence is supported by a letter from a childcare centre dated April 2025, which is now almost 17 months old.⁸² The letter refers to the child being upset and emotional during drop-off when separated from caregivers, struggling with emotional regulation, and appearing more comfortable on her own. Reference is also made to the child's "irregular" attendance and consequent difficulty settling into Centre routine. Ms BB's evidence is that there have

⁷⁸ *Minister for Immigration and Ethnic Affairs v Teoh* (1995) 183 CLR 273, at 304 (Gaudron J).

⁷⁹ *Minister for Immigration & Multicultural & Indigenous Affairs v Lorenzo* [2005] FCAFC 13, [88] (Wilcox, Sackville & Finn JJ).

⁸⁰ Exhibits A12 and

⁸¹ Exhibit R1, 94 [56].

⁸² *Ibid* 84.

been two occasions in 2018 and 2019 when her parents travelled to and lived in Australia on a “three-year” visa before they had to return to India for around six or seven months.⁸³ Both the Applicant and Ms BB gave evidence that Ms BB’s mother is currently in Australia assisting with the care of A.

118. Ms BB refers to A having “skin problems”, “anger issues and behavioural problems”, and “not sleeping”. The Tribunal has considered Exhibit A11, which contains several references to issues experienced by A as follows:

- (a) A report dated 28 January 2026, titled “Child Development Service Initial Clinical Session Summary” was commissioned by Ms BB’s general practitioner in April 2025. The form was completed by a physiotherapist and refers to observations of A and recommendations including: “Discuss with Child Development Team; Refer to dietician; Assess hearing and vision; Likely some more observations in clinic...”. The report goes on to state: “Unfortunately, the family have failed to attend a number of booked appointments and have not responded to our attempts to contact. [A’s] referral to the Child Development Service has now been closed”. There is no other evidence before the Tribunal on this issue and Ms BB’s oral evidence is that she was unable to attend the appointments because of a lack of support at home and is trying to re-schedule them.
- (b) Child A was diagnosed on 5 January 2026 at a Queensland hospital with a urinary tract infection and discharged with oral antibiotics and recommendation for general practitioner follow-up. A urine microbiology report dated 4 January 2026 is included.
- (c) Child A was diagnosed with Eczema at a Queensland hospital on 19 July 2026. Discharge was on the same day with oral antibiotics for five days, application of a steroid cream, moisturiser, and use of “soap-free bath wash + can add bath oil”.

119. The Applicant has been largely absent from Child A’s day-to-day life since birth. His polysubstance drug addiction, crimes, and time spent in custodial settings cannot have been in the child’s interests from a care, welfare and development perspective. There have been long periods of absence or limited meaningful involvement between the Applicant and

⁸³ Ibid 95 [57].

child A, resulting in limited opportunity for direct and consistent participation in daily care and upbringing. The principal parental and day-to-day caregiving role has been performed by Ms BB and maternal grandparents. The existence of those established caregiving arrangements is an important matter in assessing child A's present circumstances and the likely practical effect of the Applicant's continued absence. Child A's life in Australia also seems affected by factors such as not learning English, extended stays in India, the time-intensive needs of Ms BB's cleaning business and Ms BB's health issues.

120. The Tribunal accepts that Ms BB is presently under significant physical, psychological and personal strain. Those circumstances are considered only insofar as they bear upon child A's welfare and best interests. The evidence supports a conclusion that the Applicant's supportive presence in the household could provide practical assistance with childcare and reduce pressure on Ms BB. This could confer indirect benefits upon child A through greater practical and emotional support in the family unit. It is conditioned, however, by the Applicant's ability to remain abstinent and law-abiding if released into the community.
121. That potential benefit to child A, however, should not be overstated. The Applicant has historically played a limited direct role in the child's care and appears to have made no direct financial contributions to her needs. Further, if his visa were reinstated, he would initially at least have a visa without work rights or the ability to make financial contributions. Although he intends applying for work rights, that remains prospective. The Tribunal has therefore not assumed that revocation would result in the Applicant immediately becoming a financial provider or substantially altering the family's financial circumstances.
122. The Tribunal has also considered the extent to which the Applicant is likely to play a positive parental role in child A's future. The evidence concerning his rehabilitation, treatment and developing insight is relevant to that question. It provides some basis for concluding that, if permitted to stay in Australia, he has the capacity to develop a more prominent parental role. This is prospective and its extent cannot be assumed.
123. The Tribunal has considered the Applicant's prior family violence and other relevant conduct insofar as it may bear upon child A's best interests. There is no evidence that either Ms BB or child A has been subjected to, exposed to, or otherwise negatively affected by such conduct. That conclusion does not mean the Applicant's prior conduct is irrelevant to the assessment of his future parental role. The nature and seriousness of that conduct, together

with his rehabilitative progress and developing insight, remain relevant to assessing whether he is likely to provide a safe, stable and positive parental influence in future.

124. A non-revocation decision would likely prolong, and potentially make long-term, the Applicant's physical separation from child A. It would limit opportunity for relationship development through regular face-to-face contact and greater day-to-day involvement. The Tribunal accepts that contact could continue by telephone, video communication and, potentially, visits. This follows from the fact that child A has spent time in India and had some contact with the Applicant's mother. Indeed, the nature of the existing relationship between the Applicant and child A demonstrates that meaningful contact can be maintained to some extent despite physical separation. Remote contact, however, is suboptimal when compared with regular physical presence and direct participation.
125. At the same time, the Tribunal takes into account that child A has already experienced lengthy periods of separation from the Applicant and has an established caregiving arrangement since birth that has not depended on his daily presence. This moderates the weight of any finding concerning immediate disruption to her existing care arrangements. The more significant potential benefit of revocation lies in enabling child A to have the opportunity, during remaining childhood, to develop and maintain a more direct and substantial relationship with the Applicant.
126. Having regard to the totality of the evidence, and on the premise that the Applicant can remain drug and crime-free on release, the Tribunal accepts revocation is in child A's best interests. That conclusion is given favourable weight, which is moderated by factors such as the Applicant's historical absence from child A's life, limited role as a caregiver and provider of financial support, the established alternative caregiving arrangements, and the prospective nature of his future parental role. As noted earlier, the rehabilitative progress he has made in custody is also incomplete and untested in the community. Those matters do not, however, displace the benefit to child A of being able to maintain and develop a more direct relationship with the Applicant during childhood.
127. The Tribunal has considered child B and child C separately. Both are relevant minor children affected by the decision. However, the evidence concerning the Applicant's relationship with them is scant. Exhibit A12, contains passing reference to one child and Dr Donnelly confirmed there is no evidence from a parent or caregiver of the other child. In terms of the

former, it states: “He used to play with my daughter like family, and even now my daughter still misses him and asks about him sometimes”. The Applicant’s oral evidence about children B and C was general. He does not claim to have played a significant parental or caregiving role or made financial contributions to their support. Nor is there sufficient evidence concerning the frequency and quality of contact, the nature of any emotional dependency, or the extent to which either child currently depends upon the Applicant’s presence in Australia for their wellbeing. The Tribunal has insufficient evidence to make a finding about the extent to which he is likely to play a positive future role regarding children B or C. That said, the limited evidence does not justify a finding that children B and C would derive no benefit from him remaining in Australia. This could facilitate the maintenance or development of their relationships and may provide some practical or emotional benefit. However, the evidence does not permit that benefit to be assessed as substantial or that there is likely to be any material adverse impact in the event of non-revocation.

128. The Tribunal finds that revocation is in the best interests of B and C, but only to a very limited extent. The children’s best interests are given very slight weight favouring revocation.
129. Turning now to an overall assessment for this primary consideration, revocation is in the best interests of A, B and C. The Tribunal finds that this primary consideration carries moderate weight overall in favour of revocation.

Expectations of the Australian community

130. Clause 8.5 of the Direction provides that the Australian community expects non-citizens to obey Australian laws while in Australia. Where a non-citizen has engaged in serious criminal conduct, or presents an unacceptable risk of doing so, the Direction provides that the Australian community, as a norm, expects that the person should not be permitted to enter or remain in Australia. The Direction further identifies certain forms of conduct, including family violence and serious offending against vulnerable members of the community, as giving rise to serious character concerns.
131. This consideration is concerned with the expectations of the Australian community as expressed by the Australian Government and does not require the Tribunal to determine community attitudes for itself in a particular case. Rather, it must apply the normative expectations prescribed by the Direction and weigh that together with the other relevant

considerations arising under s 501(2) of the Act.⁸⁴ Clause 8.5(3) of the Direction provides that the deemed community expectations apply regardless of whether a non-citizen poses a measurable risk of causing physical harm to the community.

132. The nature, seriousness and pattern of the Applicant's crimes and other conduct were earlier addressed. The totality of his conduct falls well short of Australian laws and accepted community standards. For the purposes of cl 8.5, the relevant question is the weight to be given to this primary consideration arising from that established conduct. It is noteworthy in this regard that the Applicant's criminal history includes conduct raising serious character concerns within the meaning of cl 8.5(2)(a) and (c) of the Direction. The Australian community would expect he should not hold a visa to remain in Australia.
133. Having regard to the community expectations expressed in cl 8.5, this primary consideration weighs substantially against revocation.

OTHER CONSIDERATIONS

Legal consequences of the decision

134. Clause 9.1 of the Direction requires decision-makers to consider the relevant legal consequences of a decision under s 501 or s 501CA. The Direction also requires consideration of Australia's international non-refoulement obligations where they are relevant. Where the non-citizen is the subject of a protection finding or raises claims capable of engaging non refoulement obligations, the Direction prescribes further matters to which regard must be had. Conversely such obligations will generally not arise for consideration when no relevant claim is advanced, and the circumstances do not otherwise suggest that a non-refoulement issue arises.
135. Legal consequences can be quite broad and include factors such as duration of detention and prospects of removal. The Tribunal is required to give active intellectual consideration to an applicant's clearly articulated representations about risk of harm, regardless of

⁸⁴ *FYBR v Minister for Home Affairs* (2019) 272 FCR 454, 471–3 [66], [75]–[76] (Charlesworth J), 476 [91] (Stewart J).

characterisation.⁸⁵ This is in the context of “another reason” for revocation under s 501CA(4) of the Act, where claims are not required to meet predetermined benchmarks and can be less categorical than the more comprehensive assessment process conducted under s 36A of the Act.⁸⁶ The Tribunal must read, understand, and evaluate the Applicant’s clearly articulated representations or those obviously arising from the evidence.⁸⁷ The Direction requires the Tribunal to consider legal consequences even if an applicant’s position is that the consideration is not relevant or faintly advanced.⁸⁸

136. In assessing the significance of legal consequences, relevant authorities refer to “direct and immediate statutorily prescribed consequences of the decision in contemplation”.⁸⁹ The Tribunal should avoid double counting matters already substantively considered under other provisions in the Direction. This includes matters such as the Applicant’s potential long-term separation from Ms BB and their child, which was previously considered under cl 8.3, and the best interests of affected children under cl 8.4. It is not required to give these issues additional weight under clause 9.1 merely because they also arise from the legal effect of a non-revocation decision.⁹⁰
137. It is open to the Tribunal to attribute whatever weight attaches to legal consequences in the circumstances of the case, or to give this consideration neutral weight providing the reasoning is adequately explained.⁹¹ Possible factors can include the probability of a legal consequence occurring, whether an applicant intends making a protection visa application, and, if able to be ascertained without undue speculation, the course of future outcomes arising from the Tribunal’s decision.

⁸⁵ *YKSB v Minister for Home Affairs* [2020] FCAFC 224, 5 (Reeves, Bromwich and Anderson JJ); *Minister for Home Affairs v Omar* (2019) 272 FCR 589, 602-10 [34]–[44] (Allsop CJ, Bromberg, Robertson, Griffiths and Perry JJ).

⁸⁶ *The Direction* cl 9.1.2(2); *Plaintiff M1/2021*, 605 [39]; *Ayoub v Minister for Immigration and Border Protection* (2015) 231 FCR 513, 521 [27]–[28] (Flick, Griffiths and Perry JJ); *Ali v Minister for Immigration and Border Protection* [2018] FCA 650 at [28] (Flick J) (*‘Ali’*).

⁸⁷ *Plaintiff M1/2021 v Minister for Home Affairs* (2022) 275 CLR 582 (*‘Plaintiff M1/2021’*), [22], [25], [27], [36] (Kiefel CJ, Keane, Gordon, and Steward JJ).

⁸⁸ *Le v Minister for Immigration and Citizenship* [2026] FCA 774 (Le), [57] (Lee J).

⁸⁹ *Taulahi v Minister for Immigration and Border Protection* (2016) 246 FCR 146, [84] (Kenny, Flick and Griffiths JJ); *NBMZ v Minister for Immigration and Border Protection* (2014) 220 FCR 1, [8]–[9] (Allsop CJ and Katzmann J), [153] (Buchanan J); *Singh v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2024] FCA 1273, [17]–[19] (Rangiah J).

⁹⁰ *Stonely v Minister for Immigration and Multicultural Affairs* [2025] FCA 143, [37] – [38] (*‘Stonely’*) (Charlesworth J).

⁹¹ *JRX25 v Minister for Immigration and Citizenship* [2026] FCA 1170, [81] – [89] (Dowling J).

138. The Applicant has not applied for a protection visa and stated during oral evidence he does not want to do so. It follows that he is not covered by a protection finding and falls under cl 9.1.2 of the Direction.
139. The Tribunal has considered the Applicant's reliance on *Le*. The significance of this decision includes that decision-makers must not treat serious legal consequences as devoid of weight merely because they are contemplated by the statutory scheme.⁹²
140. The Applicant's evidence under this consideration was limited, general, and aspects of it are perhaps more relevant to impediments if removed. During oral evidence he referred generally to "a lot of discrimination" against Sikhs in India because of an "election coming". This evidence was somewhat opaque and not elaborated upon. The Applicant also did not meaningfully raise this issue in written submissions⁹³ and the Tribunal has inferred he is referring to the separatist Khalistan movement. If so, it remains unclear to the Tribunal how this issue intersects with his circumstances.
141. The Applicant has referred to a cousin in India who is now purportedly married to Ms AA and has "criminal links". He claims this cousin made oral threats against him by telephone such that he fears being "subjected to physical and emotional harm".⁹⁴ Exhibit A7 also appears to reference this issue, which is a letter from the Applicant's mother to Indian Police in 2025 about the conduct of Ms AA, some of Ms AA's relatives, and purported "goons". Given the Applicant's current evidence about this letter and failure to correct his mother's misapprehensions, the Tribunal approaches his claims about the conduct of relatives in India with caution. The Applicant's general assertion about fearing discrimination, or harm from relatives based on his past relationship with Ms AA, without a clearly articulated protection claim or sufficient evidence directed to the relevant criteria in these proceedings, does not provide a proper basis to make a substantive protection finding under cl 9.1.
142. The Tribunal therefore defers any substantive assessment about this. There is no evidence that any claims the Applicant may wish to advance cannot be pursued through the protection processes under the Act.

⁹² *Le* [47] – [52].

⁹³ ASFIC, 22 – 23; Exhibit R1, 932.

⁹⁴ ASFIC, 22 [137] – [140].

143. Turning now to the possible paths that may emerge from the Tribunal's decision, a revocation decision restores the Applicant's Bridging Visa. This is a temporary visa with no right to remain in Australia permanently. The Minister could challenge the Tribunal's decision in the Federal Court or exercise a personal power such as setting it aside under s 501BA of the Act. These are not direct or immediate consequences of the Tribunal's decision, however, and turn on future Departmental / Ministerial decision-making for which there is no evidence. Considering what the Minister might do in these circumstances involves undue speculation.
144. A non-revocation decision, on the other hand, means the Applicant remains an unlawful non-citizen within the meaning of s 14 of the Act and liable for removal as soon as reasonably practicable in accordance with s 198. His ability to make other applications would be impacted (ss 501E and 501F), noting that the Federal Court has found the consequences of s 501E are "not a complete absolute bar to the making of a visa application" with statutory exceptions for a non-citizen to apply for a protection visa or another visa in the regulations.⁹⁵ The Tribunal nevertheless accepts this has the potential to result in a non-citizen's indefinite or permanent future exclusion because applicable special return criterion may prevent satisfaction of relevant return requirements for most visas.⁹⁶ However, it does not follow that these intended consequences of the exercise of statutory power under the Act must be given independent favourable weight merely because they have serious effect. The prospect of an such effect being realised is speculative in circumstances where the Applicant could appeal the Tribunal's non-revocation decision to the Federal Court, as he has done on three previous occasions. Other possibilities include him lodging a protection visa application, seeking an exercise of non-compellable Ministerial discretion, or requesting voluntary removal to India. He has stated he does not want to make a Protection Visa application, but this may change in the event of a non-revocation decision. There is no reliable basis to conclude what he may do. His detention is permissible while other valid applications are considered, or arrangements made for repatriation at own request.⁹⁷ The possible duration of the Applicant's immigration detention is now considered.

⁹⁵ *Manebona v Assistant Minister for Citizenship and Multicultural Affairs* [2025] FCA 1342, [88] (Wheatley J).

⁹⁶ *Stoneley v Minister for Immigration and Multicultural Affairs* [2025] FCA 143, [35] (Charlesworth J).

⁹⁷ *CZA19 v Commonwealth of Australia* [2025] HCA 8, [38], [59] (Gageler CJ, Gleeson, Jagot and Beech-Jones JJ).

145. There is no evidence that in the event of a non-revocation decision the Applicant faces the prospect of prolonged or indefinite detention. The precise period turns on the unknown course of future events and matters outside the evidence before the Tribunal and the operation of the statutory removal process. On current evidence, the Applicant's detention pending removal, if that is the outcome, does not carry significant additional weight in favour of revocation. The Tribunal otherwise adopts persuasive judicial guidance in not speculating about decisions confronting future decisionmakers.⁹⁸
146. Whatever the direct and immediate statutorily prescribed consequences are of the Tribunal's decision, and in the longer term depending on the course of future events, they encompass the possibility of the Applicant being restricted in what visa applications he can make and inability to return to Australia in future. These have resulting serious and adverse consequences for him and his family. However, these have been substantively addressed under clauses 8.3 and 8.4, and the Tribunal has found no separate circumstance—such as a demonstrated prospect of prolonged or indefinite detention, or the practical impossibility of removal. Nor does the evidence establish that any non-refoulement claim the Applicant intends to advance cannot be pursued through the protection processes available under the Act, such as to warrant additional favourable weight under this consideration.
147. Accordingly, the Tribunal does not consider that clause 9.1 adds substantial independent weight favouring revocation. Slight weight is placed on the unpredictable duration of the Applicant's detention, notwithstanding that this could result from future applications he may advance and the legally permissible nature of detention in such circumstances.

Impact on Australian business interests

148. Clause 9.3 requires consideration of any impact a decision may have on Australian business interests. The relevant business interest in this case is Ms BB's cleaning company. The evidence about this is scant and includes oral evidence that she currently provides cleaning services under one remaining contract and employs one person. It is nevertheless accepted this is a business interest capable of being considered under clause 9.3.

⁹⁸ See, for example, *Ali v Minister for Immigration and Border Protection* [2018] FCA 650, at [28], [31]-[33]; *DOB18 v Minister for Home Affairs* [2018] FCA 1523, [35] (Griffiths J); *MNLR v Minister for Immigration, Citizenship, Migrant Services & Multicultural Affairs* [2021] FCAFC 35, [150] (SC Derrington J); *RRFM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2022] FCAFC 27, [37] (Nicholas, Yates and Burley JJ); *XPLW v Minister for Immigration and Multicultural Affairs* [2026] FCA 210, [53], [59] (Horan J).

149. The Tribunal accepts Ms BB has experienced health difficulties and has substantial child caring responsibilities. These matters place practical demands upon her and affect involvement with her business. It is submitted the Applicant could assist with childcare and other practical assistance to free her up. The Tribunal has earlier considered this under clause 8.3 and it is not given additional weight under clause 9.3 except to the extent it establishes the requisite impact upon an Australian business interest.
150. The evidence does not establish the extent to which the Applicant's presence in Australia and childcare contribution would affect Ms BB's capacity to operate the business, service its remaining contract, retain or expand its operations, or otherwise improve its commercial position. There is scant independent evidence about the status of her business except for Exhibit A15, which is over four years old. Moreover, any connection between the Applicant's presence and impact upon the business is indirect and not established by the evidence as a material business benefit. This includes because he has not had work rights since 2020 and the time he has spent in custody since 2022. The nature of any future contribution is speculative about how this would affect the operation, viability or capacity of the business, and remains contingent on him acquiring work rights. The Tribunal does not consider it appropriate to give weight to a prospective business benefit that is uncertain and insufficiently established by evidence.
151. Of particular significance, the business has continued to operate since the Applicant's imprisonment, during which he has not provided the assistance now proposed. The evidence does not establish that his continued absence has prevented the business from operating or that his presence is necessary to ensure its continuing viability. Nor does it establish that the Applicant's absence has materially contributed to any previous fluctuation in business contracts.
152. The Applicant submits that, if the business were unable to continue servicing the sole remaining cleaning contract, this could adversely affect an Australian customer. However, there is no evidence from the customer (a major Australian supermarket retailer), or that cleaning services could not be obtained from others. Nor is there evidence that Ms BB's business provides a service of such particular importance that its interruption would significantly compromise the delivery of an important service in Australia. The Tribunal therefore does not consider that the potential impact upon the remaining customer, or upon

provision of cleaning services generally, establishes a material impact on Australian business interests.

153. The evidence does not establish that the Applicant's contribution, either in freeing up Ms BB to focus more on her business, or his direct involvement subject to gaining work rights, would translate into a material benefit to the operation, viability or capacity of her business. It follows that this consideration is given neutral weight.

Extent of impediments if removed

154. Clause 9.2 of the Direction requires consideration of impediments a non-citizen would face if removed to their country of citizenship in establishing themselves and maintaining basic living standards, having regard to age, health, any language or cultural barriers, and the social, medical and economic support available in that country. The relevant question is not whether a non-citizen would experience hardship because of removal, or may not have access to the same services, treatment, family support or opportunities presently available in Australia. Rather, it is whether their circumstances give rise to impediments in establishing themselves and maintaining basic living standards in the context of what is generally available to other citizens of their country.
155. The Applicant did not refer to physical conditions during oral evidence and stated there was no health impediment to him returning to work if released. The Tribunal notes documentary evidence relating to a viral condition he was diagnosed with while incarcerated.⁹⁹ This appears stable but subject to future monitoring. No evidence was led that this monitoring or any future required treatment is unavailable in India or inaccessible by the Applicant.
156. The Applicant referred to immigration detention as "highly stressful" and causing him a "lot of depression". This includes because of concerns about Ms BB and their child. He submitted that significant psychological, familial, medical and practical impediments confront him if removed. This includes an asserted absence of meaningful family support in India because his mother and a child from his first marriage to Ms AA purportedly left for the United States 2025, leaving him without any family support. The Applicant said his recent psychological deterioration would be further impacted by removal, citing interruption

⁹⁹ Ibid 133.

to rehabilitation supports, separation from Ms BB and their child, perhaps exposure to unresolved conflict involving Ms AA and her relatives, and practical issues such as re-establishing accommodation and employment.

157. According to Dr Kwok in 2025, the Applicant does not suffer a diagnosed mental health condition. The most recent psychological evidence from Ms Chatterjee records a relatively recent deterioration in his mental health, which does not rise to the level of a diagnosed condition under DSM-5. Removal from Australia would interrupt the Applicant's existing treatment and rehabilitation arrangements in Australia, which may make the process of re-establishing himself more difficult. There is a risk of his mental health declining. If he were to develop a diagnosed mental health condition or needed support for worsening symptoms, or relapsed into drug addiction, he would likely be confronted by comparative shortcomings inherent in the Indian health system and factors such as stigma associated with mental health.¹⁰⁰ Relapse into drug addiction or offending may also bring him to the attention of Indian authorities and perhaps judicial sanction. The prospect of these things occurring, however, is speculative. The Applicant's claims to have internalised and applied strategies to deal with mental health symptoms and rehabilitative needs. He also expressed determination not to relapse into drug addiction irrespective of where he lives. When asked about residual cravings, he stated: "I have stopped even thinking about it...I have a very strong mind to remain [abstinent]".
158. It is accepted that income support and other benefits in India are incomparable to those in Australia and questions reasonably arise about what the Applicant may access if required.¹⁰¹ The relevant question, however, is not whether re-establishment would be difficult, or whether the Applicant would lose support arrangements currently accessed in Australia, or whether services here are better. Loss of continuity relating to support or benefits in Australia does not, of itself, establish an impediment of significant weight for the purposes of clause 9.2. The relevant assessment must be undertaken in the context of the support and services generally available to other Indian citizens. There is no evidence that, by reason of his circumstances, the Applicant would be denied access to the health, psychological, substance-use, social or other forms of support generally available to Indian citizens. This includes if his mental health deteriorates or he relapses into illicit drug use.

¹⁰⁰ Exhibit R1, 277 [2.39] – [2.42]; 339, 342, 346.

¹⁰¹ ASFIC, 25 – 26.

Nor is there evidence that his current psychological symptoms or past drug use history would prevent him from seeking such support. The evidence also does not establish that the Applicant's psychological symptoms, which do not meet the diagnostic criteria for a disorder under DSM-5, would prevent him from establishing himself or maintaining basic living standards in India when considered in the context of the circumstances and support generally available to other Indian citizens.

159. In terms of the Applicant's evidence about an asserted lack of family support in India, there is no corroborative evidence to confirm this or establish the present circumstances of his mother, child with Ms AA, or any other relatives or friends in India. The Applicant stated during oral evidence that his mother owns a house in India and the Tribunal therefore approaches the asserted absence of family support with some caution. In any event, even if the Applicant's mother and son no longer reside in India, the evidence does not establish that his circumstances prevent him from establishing a support network or otherwise accessing the support generally available to other Indian citizens.
160. The Applicant also relies upon unresolved family circumstances involving Ms AA and his asserted concerns about potential harm or conflict if he returned to the area of his former village. The Tribunal accepts those circumstances may cause the Applicant concern and make return to that locality less attractive or more difficult. However, there is no evidence that he would be unable to safely reside elsewhere in India or be prevented by family disharmony from re-establishing himself.
161. The Applicant is presently 31 years old and spent most of his life, including his formative years, in India. There is no discernible linguistic or cultural barrier. He has some previous work experience in India. While there is no guarantee he would immediately obtain employment in India if returned, the evidence does not establish an inability to seek or obtain work or otherwise support himself. His age, apparent capacity for employment and previous work experience are relevant to his ability to establish himself and maintain basic living standards. The Applicant stated during oral evidence there is no medical or psychological condition precluding him from employment. The absence of an identified employment opportunity in India does not, without more, establish a significant impediment for the purposes of clause 9.2.

162. The Applicant has spent approximately eight years in Australia, a substantial proportion of this in custodial settings. It is accepted that re-establishment in India after an eight-year absence, and with his criminal history, will be difficult and require adjustment. The Applicant claimed during the present hearing he has no property or other assets in India. As noted earlier, this conflicts with evidence at previous hearings,¹⁰² but is irreconcilable without more. If he does own a house or other property or has some sort of equity interest in a property transferred to his mother's name, this would be relevant to a capacity to re-establish himself. It would materially reduce the practical difficulty of return and distinguish his circumstances from those of a person being returned to a country in which they have spent little or no meaningful period of their life or with which they have no continuing practical connection.
163. It is accepted the Applicant's removal from Australia would result in continuing physical separation from immediate family in Australia and may therefore make the process of re-establishment in India more difficult. The Tribunal has considered the Applicant's submission that Ms BB and their child are important protective factors, and his removal would result in potentially long-term physical separation from them. It is accepted this would be difficult and may adversely affect his emotional wellbeing. However, it would result from a difficult but ultimately personal choice taken by him and Ms BB in the event of non-revocation. Moreover, the hardship arising from family separation has been considered separately under cls 8.3 and 8.4 of the Direction. For present purposes, the question is whether that separation would create an impediment to the Applicant establishing himself and maintaining basic living standards in India, assessed in the context of what is generally available to other Indian citizens. The evidence does not establish this.
164. Accordingly, while the Applicant's removal would involve hardship and some genuine difficulties of re-establishment, the Tribunal is unpersuaded that his circumstances create impediments of such a degree that he would be unable to establish himself or maintain basic living standards in India when assessed in the context of what is generally available to other Indian citizens. The Tribunal finds that the extent of impediments the Applicant would face if removed to India weigh no more than moderately in favour of revocation.

¹⁰² Exhibit R1, 14 [77], 932 [17], 1252 [113], 1349 [11] – [15], 1377 [44], 1402 [18], 1452 [3], 1452 [30], [43].

CONCLUSION

165. Because of the combined effects of ss 501(6)(a) and 501(7)(c) of the Act, the Applicant does not pass the character test. In considering whether there is “another reason” for revocation, the Tribunal has applied the Direction to the circumstances of his case. Consistent with cl 7(2) of the Direction, the Tribunal has accorded greater weight to the primary consideration relating to protection of the Australian community than to the other primary considerations.
166. The primary considerations weigh in different directions. The nature and seriousness of the Applicant’s offending and other conduct, the risk of recidivism, and family violence-related conduct weigh against revocation. Aspects of the latter raise serious character concerns within the meaning of cls 8.5(2)(a) and (c) of the Direction. His conduct has fallen well below the standards expected of non-citizens in Australia and the community would expect he should not hold a visa to remain in Australia.
167. There are, however, primary considerations weighing in favour of revocation. These include the strength and nature of the Applicant’s ties to Australia, particularly Ms BB and their child. The weight to be given to this consideration is, however, constrained by the Applicant’s offending, which commenced relatively soon after arrival in Australia, as well as the consequent limited extent of positive contributions to the Australian community and broader prosocial ties. The extent of impediments the Applicant would face if removed to India also weighs in his favour.
168. When the considerations favouring revocation are considered cumulatively, they demonstrate that the cancellation of the Applicant’s visa would have significant personal consequences for him and members of his family. Those consequences have been given appropriate weight.
169. Nevertheless, having considered all relevant considerations individually and cumulatively, the Tribunal is not satisfied that the considerations favouring revocation outweigh the substantial considerations favouring non-revocation. Accordingly, the Tribunal finds that there is not another reason to revoke the mandatory cancellation of the Applicant’s visa.

DECISION

170. It follows that the Tribunal affirms the reviewable decision.

*I certify that the preceding one hundred and seventy (170) paragraphs are a true copy of the written reasons for decision of Senior Member A. Nikolic
AM CSC*

.....[sgd].....

Associate

Dated: 11 September 2026

Date of hearing:	25 and 26 August 2026
Advocate for the Applicant:	Mr Alison Dwyer (Direct access basis)
Advocate for the Respondent:	Mr Ingmar Duldig
Solicitors for the Respondent:	Clayton Utz Lawyers

EXHIBIT LIST

- (a) Documents lodged by the Respondent numbering 1514 pages;¹⁰³
- (b) Applicant's statement dated 22 June 2026 (37 paragraphs);¹⁰⁴
- (c) Handwritten notes by the Applicant titled "Domestic Violence Awareness" numbering 20 pages;¹⁰⁵
- (d) Handwritten notes by the Applicant titled "Staying in Recovery" numbering 13 pages;¹⁰⁶
- (e) Certificate from "Alison Empower Yourself" dated 7 May 2026 titled "Fundamentals of Domestic Violence and Abuse";¹⁰⁷
- (f) Certificate from Healthcare Australia dated 19 May 2025 regarding the Applicant's completion of five sessions of "Group Therapy";¹⁰⁸
- (g) Certificates dated between November 2025 and July 2026 regarding the Applicant's attendance at session blocks of the Smart Recovery Program at the Brisbane Immigration Detention Centre;¹⁰⁹
- (h) Letter from the Applicant's mother dated February 2025 to a Senior Superintendent of Police in India alleging conduct by Ms AA against the Applicant;¹¹⁰
- (i) Medical appointment and admission letters dated 12 January 2026, 2 April 2026, 10 May 2026, 3 July 2026, 9 July 2026 relating to Ms BB;¹¹¹

¹⁰³ Exhibit R1.

¹⁰⁴ Exhibit A1.

¹⁰⁵ Exhibit A2.

¹⁰⁶ Exhibit A3.

¹⁰⁷ Exhibit A4.

¹⁰⁸ Exhibit A5.

¹⁰⁹ Exhibit A6.

¹¹⁰ Exhibit A7.

¹¹¹ Exhibit A8.

- (j) Letter dated 20 May 2026 from general practitioner Dr Nurun Naher regarding Ms BB;¹¹²
- (k) Letters and Reports from general psychologist Ms Tina Chatterjee dated 26 August 2023, 29 March 2025, 9 November 2025, 10 June 2026, 20 June 2026, and 22 July 2026 regarding the Applicant and Ms BB;¹¹³
- (l) Medical records relating to Child A dated 5 January 2026, 28 January 2026 and 19 July 2026;¹¹⁴
- (m) One-page letter of Mr Vikas Rana dated 20 May 2026;¹¹⁵
- (n) One-page letter of Mr Arif Sari dated 27 May 2026;¹¹⁶ and
- (o) One-page letter of Mr Harwinder Singh Gohal dated 14 May 2026.¹¹⁷

¹¹² Exhibit A9.

¹¹³ Exhibit A10.

¹¹⁴ Exhibit A11.

¹¹⁵ Exhibit A12.

¹¹⁶ Exhibit A13.

¹¹⁷ Exhibit A14.